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NO. 82-6444

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1982

DEPARTMENT OF THE NAVY, et al.,

Plaintiffs-Appellees

v

LAWRENCE RAY,

Defendant-Appellant

On Appeal From the United States Court of Appeals

For the Ninth Circuit

JURISDICTIONAL STATEMENT

Of Counsel:

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January 6, 1983

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OPINIONS BELOW

The opinion of the Court of Appeals for the Ninth Circuit is set forth in Appendix A. The opinion of the District Court for the Central District of California is set forth in Appendix B. The opinion of the Department of the Navy is set forth in Appendix C. The opinion of the Pacific Missile Test Center is set Forth in Appendix D.

JURISDICTION

The judgment of the Appellate Court for the Ninth Circuit declaring Appellant's Complaint unconstitutional in part by upholding the Interlocutory Order to dismiss indispensable Defendant parties in Civil Action 81-2513 TJH (Px) filed in the United States District Court for the Central District of California and as unconstitutional as applied to Article III. Section 2 of the United States Constitution.

The Jurisdiction of the Supreme Court is invoked under 28 U.S.C.S. § 1292(a)(1), and 28 U.S.C. § 1252.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Article III. Section 2. of the Constitution of the United States provides pertinence in part:

> The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States, and Treaties made, or which shall be made, under their authority; --to all Cases affecting * * * * to Controversies to which the United States shall be a party; --to Controversies between * * * * the Citizens thereof * * * *
> *
> In all the other Cases before mentioned, the Supreme Court shall have appellate Jurisdiction both as to Law and Fact, whith such Exceptions, and under such Regulations as the Congress shall make.

2. Article. IV. Section. 1 and Section 2. of the Constitution of the United States provides pertinence in part:

> Full Faith and Credit shall be given in each State to the Public Acts, Records, and judicial Proceedings of every other State. And the Congress may by general Laws prescribe the Manner in which such Acts, Records and Proceedings shall be proved, and the Effect thereof.
>
> Section. 2. The Citizens of each State shall be entitled to all Privileges and Immunities of Citizens in the several States.

3. The First Amendment to the Constitution of the United States provides pertinence in part:

> Congress shall make no law * * * * abridging * * * * the right of the people * * * * to petition the Government for a redress of grievances.

4. The Fourth Amendment to the Constitution of the United States provides pertinence in part:

> The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be vio-

lated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

5. The Fifth Amendment to the Constitution of the United States provides pertinence in part:

> No person shall be held to answer for a Capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; * * * * nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

6. The Ninth Amendment to the Constitution of the United States Provides pertinence in part:

> The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

7. The Tenth Amendment to the Constitution of the United States provides in part:

> The Powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the People.

8. TITLE 28-U.S.C.C § 1291 provides:

> The courts of appeals shall have jurisdiction of appeals from all final decision of the district courts of the United States, the United States District Court for the District of the Canal Zone, the District Court of Guam, and the District Court of the Virgin Islands, except where a direct review may be had in the Supreme Court.

9. TITLE 28 U.S.C.S. § 1292 (a) (1) and (b) provides in pertinent parts:

> (a) The ourts of appeals shall have jurisdiction of appeals from:
>
> (1) Interlocutory orders of the district courts of the United States, the United States

District Court for the District of the Canal Zone, the District Court of Guam, and the District Court of the Virgin Islands, or of the judges thereof, granting, continuing, modifying, refusing or dissolving injunctions, or refusing to dissolve or modify injunctions, except where a direct review may be had in the Supreme Court;

(b) When a district judge in making in a civil action an order not otherwise appealable under this section, shall be of the opinion that such order involves a controlling question of law as to which there is substantial ground for difference of opinion and that an immediate appeal from the order may materially advance the ultimate termination of the litigation, he shall so state in writing in such order. The Court of Appeals may thereupon, in its discretion permit an appeal to be taken from such order if application is made to it within ten days after the entry of the order: Provided, however,that application for an appeal hereunder shall not stay proceedings in the district court unless the district judge or the Court of Appeals or a judge thereof shall so order.

10. TITLE 42 U.S.C.S. § 1985 provides in pertinent parts:

(2) Obstructing justice; intimidating party, witness, juror. If two or more persons in any State or Territory conspire to deter, by force, intimidation, or threat, any party or witness in any court of the United States from attending such court, or from testifying to any matter pending therein, freely, fully, and truthfully, or to injure such party or witness in his person or property on account of his having so attended or testified, or to influence the verdict, presentment, or indictment of any grand or petit juror in any such court, or to injure such juror in his person or property on account of any verdict, presentment, or indictment lawfully assented to by him, or of his being or having been such juror; or if two or more persons conspire for the purpose of impeding, hindering, obstructing, or defeating, in any manner, the due course of justice in any State or Territory, with intent to deny to any citizen the equal protection of the laws, or to injure him or his property for lawfully enforcing, or attempting to enforce, the right of any person, or class of persons,to the equal protection of the laws.

(3) Depriving persons of rights or privilages. If two or more persons in any State or Territory conspire, or go in disguise on the highway or on the premises of another, for the purpose of depriving, either directly or indirectly, any person or class of persons of the equal protection of the laws, or of equal privileges and immunities under the laws, or for the purpose of preventing or hindering the constituted authorities of any State or Territory from giving or securing to all persons within such State or Territory the equal protection of the laws; or if two or more persons conspire to prevent by force, intimidation, or threat, any citizen who is lawfully entitled to vote, from giving his support or advocacy in a legal manner, toward or in favor of the election of any lawfully qualified person as an elector for President or Vice-President, or as a member of Congress of the United States; or to injure any citizen in person or property on account of such support or advocacy; in any case of conspiracy set forth in this section, if one or more persons engaged therein, do or cause to be done, any act in furtherance of the object of such conspiracy, whereby another is injured in his person or property, or deprived of having and exercising any right or privilege of a citizen of the United States, the party so injured or deprived may have an action for the recovery of damages, occasioned by such injury or deprivation, against any one or more of the conspirators.

11. TITLE 42 U.S.C.S. § 1986. Provides in pertinent parts:

Action for neglect to prevent conspiracy

Every person who, having knowledge that any of the wrongs conspired to be done, and mentioned in the preceding section (42 USCS § 1985), are about to be committed, and having power to prevent or aid in preventing the com mission of the same, neglects or refuses so to do, if such wrongful act be committed, shall be liable to the party injured, or his legal representatives, for all damages caused by such wrongful act, which such person by reasonable diligence could have prevented; and such damages may be recovered in an action on the case; and any number of persons guilty of such wrongful neglect or refusal may be joined as defendants in the action * * * * But no action under the provisions of this section shall be sustained which is not commenced within one year after the cause of action has accrued.

12. TITLE 42 USCS § 1988 provides in pertinence:

> The jurisdiction in civil and criminal matters conferred on the district courts by the provisions of this Title, and of Title "CIVIL RIGHTS," and of Title "CRIMES," for the protection of all persons in the United States in their civil rights, and for their vindication, shall be exercised and enforced in conformity with the laws of the United States so far as such laws are suitable to carry the same into effect; but in all cases where they are not adapted to the object, or are deficient in the provisions necessary to furnish suitable remedies and punish offenses against law, the common law, as modified and changed by the constitution and statutes of the State wherein the court having jurisdiction of such civil or criminal cause is held so far as the same is not inconsistend with the Constitution and laws of the United States, shall be extended to and govern the said courts in the trial and disposition of the cause, and, if it is of a criminal nature, in the infliction of punishment on the party found guilty. In any action or proceeding to enforce a provision of sections 1977, 1978, 1979, 1980, and 1981 of the Revised Statutes (42 USCS §§ 1981-1983, 1985, 1986), title IX of Public Law 92-318 (20 USCS §§ 1681 et seq.), or in any civil action or proceeding, by or on behalf of the United States of America, to enforce, or charging a violation of, a provision of the United States Internal Revenue Code (26 USCS §§ 1 et seq.), or title VI of the Civil Rights Act of 1964 (42 USCS §§ 2000d et. seq.), the court, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee as part of the costs.

13. TITLE 42 USCS § 2000a-1 provides in pertinence:

> All persons shall be entitled to be free, at any establishment or place, from discrimination or segregation of any kind on the ground of race, color, religion, or national origin, if such discrimination or segregation is or purports to be required by any law, statute, ordinance, regulation, rule, or order of a State or any agency or political subdivision thereof.
> (July 2, 1964, P. L. 88-352, Title II, § 202, 78 Stat. 244.)

14. TITLE 42 USCS § 2000a-2 provides in pertinence:

> No person shall (a) withhold, deny, or attempt to withhold or deny, or deprive or attempt to deprive, any person of any right of privilege secured by section 201 or 202 (42 USCS §§ 2000a, 2000a-1) or (b) intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce any person with the purpose of interfering with any right or privilege secured by section 201 or 202 (42 USCS §§ 2000a, 2000a-1), or (c) punish or attempt to punish any person for exercising

or attempting to exercise any right or privilege secured by section 201 or 202 (42 USCS §§ 2000a, 2000a-1) (July 2, 1964, P. L. 88-352, Title II, § 203, 78 Stat. 244.)

15. TITLE 42 USCS § 2000a-3 provides in pertinence:

(a) Civil action for preventive relief. Whenever any person has engaged or there are reasonable grounds to believe that any person is about to engage in any act or practice prohibited by section 203 (42 USCS § 2000a-2), a civil action for preventive relief, including an application for a permanent or temporary injunction, restraining order, or other order, may be instituted by the person aggrieved and upon timely application, the court may, in its discretion, permit the Attorney General to intervene in such civil action if he certifies that the case is of general public importance.

* *

16. TITLE 42 USCS § 2000a-6 provides pertinence:

(a) The district courts of the United States shall have jurisdiction of proceedings instituted pursuant to this title (42 USCS §§ 2000a-2000a-6) and shall exercise the same without regard to whether the aggrieved party shall have exhausted any administrative or other remedies that may be provided by law.

(b) The remedies provided in this title (42 USCS §§ 2000a-2000a-6) shall be the exclusive means of enforcing the rights based on this title, but nothing in this title (42 USCS §§ 2000a-2000a-6) shall preclude any individual or any State or local agency from asserting any right based on any other Federal or State law not inconsistent with this title (42 USCS §§ 2000a-2000a-6), including any statute or ordinance requiring nondiscrimination in public establishments or accommodations, or from pursuing any remedy, civil or criminal, which may be available for the vindication or enforcement of such right. (July 2, 1964, P. L. 88-352, Title II, § 207, 78 Stat.245)

17. TITLE 42 USCS § 2000e-2 Provides in pertinent parts:

Discrimination because of race, color, religion, sex, or national origin

(a) Employers. It shall be an unlawful employment practice for an employer--

(1) to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's race color, religion, sex, or national origin; or

(2) to limit segregate, or classify his employees or applicants for employment in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee, because of such individual's race, color, religion, sex or national origin.

(b) Employment agency. It shall be an unlawful employment practice for an employment agency to fail or refuse to refer for employment, or otherwise to discriminate against, any individual because of his race, color, religion, sex, or national origin, or to classify or refer for employment any individual on the basis of his race, color, religion, sex, or national origin.

(c) Labor organization. It shall be an unlawful employment practice for a labor organizaion--

(1) to exclude or to expel from its membership or otherwise to discriminate against, any individual because of his race, color, religion, sex, or national origin;

(2) to limit, segregate, or classify its membership or applicants for membership, or to classify or fail or refuse to refer for employment any individual, in any way which would deprive or tend to deprive any individual of employment opportunities, or would limit such employment opportunities or otherwise adversely affect his status as an employee or as an applicant for employment, because of such individual's race, color, religion, sex, or national origin; or

(3) to cause or attempt to cause an employer to discriminate against an individual in violation of this section.

18. TITLE 42 USCS § 2000e-3 provides in pertinent part:

Other unlawful employment practices

(a) Discrimination on account of opposition to unlawful practices or participation in investigation, proceeding, or hearing.
It shall be an unlawful employment practice for an employer to discriminate against any of his employees or applicants for employment, for an employment agency, or joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs, to discriminate against any individual, or for a labor organization to discriminate against any member thereof or applicant for membership, because he has opposed any practice made an unlawful employment practice by this

title (42 USCS §§ 2000e-2000e-17), or because he has made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this title (42 USCS §§ 2000e-2000e-17).

19. TITLE 42 USCS §§ 2000e-5 Provides in pertinent part:

Prevention of unlawful employment practices

(a) Power of Commission. The Commission is empowered as hereinafter provided, to prevent any person from engaging in any unlawful employment practice as set forth in section 703 or 704 of this title (42 USCS §§ 2000e-2, 2000e-3).

(b) Charges; notification; investigation and determination.

Whenever a charge is filed by or on behalf of a person claiming to be aggrieved, or by a member of the Commission, alleging that an employer, employment agency, labor organization or joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs, has engaged in an unlawful employment practice, the Commission shall serve a notice of the charge (including the date, place and circumstances of the alleged unlawful employment practice) on such employer, employment agency, labor organization, or joint labor-management committee (hereinafter referred to as the respondent") within ten days, and shall make an investigation thereof. Charges shall be in writing under oath or affirmation and shall contain such information and be in such form as the Commission requires.

* *

(g) Injunctions; affirmative action; equitable relief. If the court finds that the respondent has intentionally engaged in or is intentionally engaging in an unlawful employment practice charged in the complaint, the court may enjoin the respondent from engaging in such unlawful employment practice, and order such affirmative action as may be appropriate,* * * * * * * * * * * * * * * * *

(j) Appeals. Any civil action brought under this section and any proceedings brought under subsection (i) shall be subject to appeal as provided in sections 1291 and 1292, title 28, United States Code (28 USCS §§ 1291, 1292).

STATEMENT OF THE CASE

STATUTORY SCHEME:

The U. S. C. Statutes involved in the Civil Case docketed 81-2513 TJH (Px) U. S. District Court for the Central District of California and No. 82-5025 United States Court of Appeals For The Ninth Circuit, involves numerous statutes and Local and Federal Rules of Civil Procedures for Civil Rights; Immunity Rights and the Constitutional Rights of Citizenship.

The conflicting Statutes are Civil Rights; Immunity Rights and Interlocutory Statutes as to Appealable rights and rights to attest in civil suit or complaint.

THE FACTS THAT GAVE RISE TO THIS CASE:

On December 19, 1974 the Appellant was conducted with a final interview with EEO Counselor Phillip R. Villarreal on a complaint against Richard H. Rochon and Robert J. Savala of trying to make a scapegoat out of the Appellant.

On 22 December 1974 the Appellant submitted a Complaint of Discrimination to the Equal Employment Officer, Vice Commander, Pacific Missile Range, Code 01, Point Mugu, California alledgely committed against the Appellant by Richard H. Rochon and Robert J. Savala and any other accomplices thereto because of:

a) Undue harrassment, role ambiguity and stress induced by the Head and Assistant Head of the Accounting Division.

b) Unfair work appraisals and unfair performance appraisals on job applications COM-130-10-2 of August, 1973 and 3100-84- of 9 Se tember 1974.

c) Acts of de-motivation by both the Head and Assistant Head of the Accounting Division.

In a letter from the Commander, Pacific Missile Test Center dated 12 June 1975, signed by Rear Admiral, John M. Thomas stated.

> After reviewing the investigative file and considering the comments, from our meeting, I find no discrimination occurred. However, in view of your comments, a reassignment to a position in a different work area at the same grade level might be helpful. Therefore, by copy of this letter I am instructing the Civilian Personnel Officer to review the vacant jobs for which you qualify in order to determine if an acceptable reassignment opportunity is available.

On November 20, 1979 with Carl Nickens, EEo Counselor a final Interview was conducted because of alleged discrimination for:

> Being discriminated for not being a Native of Ventura County being continually harassed, and demotivated.

against Harold D. Reich, Floyd Menelly and Orville W. Millspaugh.

On 11 December 1979, the Appellant filed a discrimination complaint against Richard H. Rochon, Robert J. Savala, Harold D. Reich; Floyd A. Meneely and Orville W. Millspaugh stating in part:

> I, Lawrence Earl Ray, the complainant, do accuse Mr. Richard H. Rochon, Mr. Robert J. Savala and Mr. Harold D. Reich of Codes 0230 for Parallel and synonymous acts of discrimination and singular antonumous reprisals against my resistance to their conclusive acts.
>
> I do accuse Mr. F. A. Meneely Code 0200 and Mr. O. W. Millspaugh Code 0231 for singular synonymous and antonymous martyring of their better judgment. These accusations against Mr. Meneely and Mr. Millspaugh are at this point in the complainant's judgment presented for clarification and not for retribution.
>
> I reference to, reference c, I Lawrence Earl Ray do formally file a discrimination complaint against the aforenamed and others who maybe revealed, because of acts of harassment with attempts to inflict psychological injury because of my race and national origin on all jobs applied for from COM-130-10-2, August, 1973 through 410-GF-79; and request for alleviation. . . .

The acceptance and rejection of issues that led to the filing of the Civil Action 81-2513 TJH (Px) in the United States District Court 22 May 1981 all data is reflected in Appendix G up to filing of the Civil Action.

THE PROCEEDINGS BELOW:

On the 22 May 1981 Civil Action was filed in the United States District Court for The Central District of California Case No: 81-2513 TJH (Px) of Lawrence Ray v Department of The Navy, Pacific Missile Test Center, Richard H. Rochon, Robert J. Savala, Harold D. Reich, Orville W. Millspaugh and Floyd A. Meneely.

On 23 November 1981 a Motion was heard by the U. S. Attorney to dismiss all defendants except the Department of the Navy and the Pacific Missile Test Center. Judge, Terry J, Hatter ruled to dismiss Defendants and referred the case to be amended.

On 9 November 1982 in the United States Court of Appeals For The Ninth Circuit before Circuit Judges: Pregerson and Poole, the Appellate Court upheld "Appellees' motion to dismiss the appeal.

I. THE GRANTING OF THE INTERLOCUTORY ORDER AFFECTIVELY PRECLUDES LITIGATION BY IMPOSING SUBSTANTIAL BARRIERS THROUGH THE POWER OF THE COURT TO DISPENSE INDISPENSABLE PARTIES

"The prime object of all Litigation is to establish a right asserted by the Plaintiff or to sustain a defense set up by the party pursued." Tyler v Judges of Ct. of Registration, 179 US 405, 21 S Ct 206. (and)

> So far as plaintiff's capacity to sue therein is concerned, a federal district court is not to be distinguished from the courts of the state in which it sits. Moore v Mitchell, 281 U.S. 18, 50 S Ct 175.

The decision of the District Court and the Appellate Court for the Ninth Circuit to dismiss and uphold the dismissal of some but not all of the parties in Appellant's initial complaint is of primary paramount importance.

With only a layman's knowledge of the Law one realizes off-hand that such a dismissal conflicts with the Constitutional provisions for the Judicial process and a Citizen's Constitutional rights of "Due process of the Law."

It is of ultimate concern as to the Laws of this Land as to whether or not one may shelter one's unlawful and wrongful acts fraudently and deceitfully under one's title or position and/or blurr and bar legal redress under colour of immunity by statute. It would appeal that the administrative processes of justice are at fault or at hand here. "Does one have the proper flow of Justice and does it flow to all the parties concerned?" As stated in United States v Beebe, 127 US 338, 8 S Ct 1083;

> For the purpose of administering justice courts determine who are the real parties to a suit by referring not merely to the names in which it is brought but to the facts of the case as they appear on the record.

and as stated in Vetterlein v Barnes, 124 US 169, 8 S Ct 441.

> The rule is general that all persons materially interested in the result of a suit ought to be made parties to it so that the court may finally determine the whole controversy and do complete justice by adjudging all the rights it involves.

As in the subject Case of Lawrence Ray v. Department of the Navy, Pacific Missile Test Center, Richard H. Rochon, Robert S. Savala, Harold D. Reich, Orville W. Millspaugh and Floyd Meneely, Case No.: 81-2513 (TJH) Px. The Appellant filed this case in the United States District Court for the Central District of California as a means of last resort seeking injunctive relief before the Appellant abandoned his employment position completely. "Before a person may invoke the judicial process, he must present a federal court with a "case" or controversy" in the constitutional sense, and must show that he is a proper plaintiff to raise the issues he seeks to litigate." S. v D. 410 US 614, 93 S Ct 1146, 35 L Ed 2d 536.

Had not the Defendants jointly and severally pursued with such rancor to harass and intimidate the Appellant's person and deflate the Appellant's motivation, integrity and intuition; and had not the Pacific Missile Test Center and the Department of the Navy acquiesced so completely to the Appellant's complaint, the grounds would probably exist as to having no cause for suit or the grounds of granting immunity, and would not be contested. One's attestment would aclaim to the fact that:

> The decisions of the Supreme Court have established a policy under which indispensability of parties is determined in accordance with practical considerations.
> Shaughnessy v Pedreiro, 349 US 48, 75 S Ct. 591, 99 L Ed 868.

and that:

> (The) liability for the acts of others may be created either by a direct authority given for their performance, or it may flow from their adoption; in some instances from acquiescene in those acts.
> Fresh v Gilson, 16 Pet 327; 10 L Ed. 982.

"public officials may become tort-feasors by exceeding the limits of their authority. Land v. Dollar, 330 US 731, 67 S Ct 1009, 91 L Ed 1209." "Mo less an authority than the late Justice Hugo L. Black pointed out that the use of interlocutory appeals and the writ of mandamus is reserved for 'exceptional circumstances." Will v. United States, 389 U.S. 90, 108 (1967) (Concurring opinion)"[1]

[1]Bonner, William J. & Appler, William D., "Interlocutory Appeals and Mandamus," Carre, Peter J.; Ntephe, Azike A., Trainor, Helen C., Editors, APPELLATE ADVOCACY, (c) 1981, American Bar Association.

> Intentionally to do that which is calculated in the ordinary course of events to damage, and which does, in fact, damage another in that other person's property or trade is actionable if done without just cause or excuse; the intentional infliction of such damage upon another without justification or excuse, is malicious in law.
> Hitchman Coal & Coke Co. v Mitchell, 245 US 229 38 S Ct 65; 62 L Ed 260.

The Defendants Richard H. Rochon, Robert J. Savala and Harold D. Reich bannished all ethical compliance in their quest to inflict mental harm as noted in Appendix E. The Defendants Orville W. Millspaugh and Floyd Meneely over barrenly matyred their better judgment as an oppositioning link to the Plaintiff's Appellant's claim and to the extreme limits of the immunity of ones office as set forth in Appendix F.

> The receptivity of appellate courts to review-interim rulings may stem from the fact that the final judgment rule has always appealed more to the head than the heart. By cutting off review of important but preliminary rulings, it operates to deny substantial justice in many circumstances where the trial courts decision affects important rights that cannot be recovered even by successful appeal of the final judgment. Since appellate courts are invariably more concerned with dispensing justice than relying on technicalities, it is not entirely surprising that well-taken requests for relief from arbitrary interlocutory, orders are frequently successful even in circumstances where the decision is nominally adverse.[2]

"While all decisions that do not terminate the litigation are not really final, some types of decisions--to paraphrase George Orwell in Animal Farm-- 'are more final than others.' Those decisions are treated as Final decisions, even when they are obviously not, thereby giving the unsuccessfyl trial party on absolute right to appeal them."[3]

Thus, the concerted intermingling of the Defendants/Appellees actions to intimidate and harm the Appellants well being subjects

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[2 &3] Bonner, Williams J. & Appler, William D., Interlocutory Appeals and Mandamus," p. 65 & 66.

them to the fact that they are conditional and unconditional parties to the alleged complaint of the Appellant indispensable in their joint and several actions.

The Wrongful acts instigated by the Defendants-Appellees upon the Plaintiff-Appellant abridges the Appellant's Constitutional and Statutory rights and bars the exercising of his freedoms entitled by those rights. Those Constitutional and statutory rights include but are not exclusively listed as those rights pertaining to the Appellant's citizenship under Article III, Section 2; Article IV, Section 1 and Section 2; The First, Fourth, Fifth, Ninth and Tenth Amendments of the Constitution of the United States and Sections 1985, 2 and 3; § 1986; 1988; 2000a-1; 2000a-2; 2000a-3; 2000a-5; 2000a-6; 2000e-2; 2000e-3; 2000e-5; 2000e-16 of the Statutory Codes.

"The Second Circuit proposed a 'death knell' exception for orders that effectively preclude continued litigation by imposing substantial barriers to a party's proceedings. This exception is intended to deal with situations where for, example, denial of class action certification means that the remaining individual plaintiff or plaintiffs cannot reasonably be expected to pursue the case. In other 'words when a plaintiff's action is effectively dead, the order which killed it must be viewed as final.' Hines v D'Artois, 531 F. 2d 726, 730 (5th Cir. 1976)."[4]

> An application for an interlocutory injunction involves the exercise of a sound judicial discretion, to be exercised only upon a determination, in the light of the issues and of the facts presented, whether the complainant has made or has failed to make such a showing of the gravity of his complaint as to warrant interlocutory relief.
> Public Service Commission v Wisconsin Telph. Co. 289 US 67, 53 S Ct 514, 77 L Ed 1036.

(also)

> An interlocutory injunction is not ordinarily a matter of strict right, but the application for it is addresed to the sound discretion of the c ourt.
> Rice & Adams Corp. v Lathrop 278, US 509, 49, S Ct 220, 73 L Ed 480.

[4]Bonner, Williams J. & Appler, William D., Interlocutory Appeals and Mandamus," P. 67.

There is the highest public interest in the due observance of all the constitutional guaranties, including those that bear the most directly on private rights, and it is competent for Congress to authorize the United States to be the guardian of that public interest in a suit for injunctive relief.
Unite States v. Raines, 362 US 17, 80 S ct 519 4 L Ed 2d 524.

II. WHEN THE CONCERTED OR UNITY OF ACTIONS OF ALL ARE INDISPENSEABLE AND RESULT IN A WRONGFUL ACT THE FULE OF JOINT AND SEVERAL LIABILITY OF TORT_ FEASORS APPLY

"Acts in themselves legal lose that character when they become part of an unlawful scheme. Steele v Bulova Watch Co. 344 US 280, 73 S Ct. 252; 97 L Ed 319.

> To sustain an action on the case it must be shown that the defendant has done some wrong, that is, has violated some right of the plaintiff, and that damage has resulted as a direct and proximate consequence of the commission of that wrong; a mere conspiracy or combination to do injurious acts is not sufficient.
> Adler v Fenton, 24 How 407; 16 L Ed 696.

"All legal restrictions which curtail the civil rights of a sin gle racial group, although not necessarily unconstitutional are immediately suspect, and must be subject to the most rigid scrutiny by t the courts. Korematsu v United States, 323 US 214, 65 S Ct 193; 89 L Ed 194." One must approach CIVILITY and/or HUMANITY in all his undertakings. Consequently one does not accept a fiduciary trust or duty without some major convincing knowledge of the civil and/or humanitarian obligation of the duty or trust upheld. "Classifications based solely upon race must be scrutinized with particular care, since they are contrary to American traditions and hence constitutionally suspect. Bolling v Sharpe, 347 US 497, 74 S Ct 693; L Ed 884." Important elements of tort of intentional infliction of mental distress are that the act is intentional or reckless; act is unreasonable and actor reasonably should have recognized his conduct as likely to cause the harm sustained, Moore v Greene, 431 F. 2d 584.

The Pacific Missile Test Center had iniated an Equal Employment Opportunity Program with instructions and brainstorming of employees as totheir ideas about the Equal Employment Opportunity Program.

There are no sanctuaries for one whose acts require an answer to the civil suit of the law and the fact that society cannot provide sanctuaries to criminals except by its demans of just limits, restraints and constraints of pursuit. One cannot enter limitations and shelter oneself under the colour of restraints and constraints in the keeping of ones unlawful, premeditated, illwilled and wilfull

intent to do harm. One must accept one's calling of answer to one's acts and deeds. A lifting of the curtain that hides the Overter and the Overter's coverted acts. A piercing of the veil of the consequences of ones bind to duty through the harm of his acts. "The First Amendment rights of free expression and the precious rights of personal liberty it protects are comprehended in the concept of 'civil rights.' Greenwood v Peacock, 384 US 808, 86 S Ct 1800; 16 L Ed 2d 944."

> In order to create liability for an act on the ground that it was negligent, it must be shown to have been the conscious acts of the defendant's volition. He must have done that which he ought not to have done, or omitted that which he ought to have done as a conscious being. Knowledge or the opportunity to acquire knowledge of the peril involved in an act is fundamentally the basis of the duty to use due care to avoid injury to another person.[5]

It is (it is believed, to be) " a policy of the Navy to render its employees free of any and all discrimination within the Department of the Navy." It does not allow one to discriminate or do unlawful acts because and merely because one has a position or status to do so.

The audacious decree of immunity to prosecution is an act of Malice: malicious inits decree; malicious in its application to the law; malicious inits implication to blur the true nature of the acts of the Defendants in the Civil Action 81-2513 TJH (Px).

> Because the core of the fourteenth Amendment is the prevention of meaningful and unjustified official distinctions based on race, racial classifications are constitutionally suspect, and subject to the most rigid scrutiny; such classifications bear a far heavier burden of justification than other classifications.
> Hunter v Erickson, 393 US 385, 89 S Ct 557, (Annotated) 21 L Ed 2d 616.

In a just and civil society one is answerable to his deeds; whether his acts are just or unjust and that the relief granted to him by his works or presence is equitable and of merit.

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[5] 38 American Jurisprudence P. 671 "NEGLIGENCE."

"The determination of who are the proper and necessary parties to an action is usually said to belong rather to the form of the remedy than to the merit of the claim, and it, therefore is ordinarily to be determined by the law of the forum. But this is not always true; where a right of action is created by statute and the right to enforce it is given to designated persons or to a class of persons, that law controls the question of the proper party plantiff when suit is brought in another jurisdiction."[6]

---

[6] American Jurisprudence, P. 851, PARTIES."

III. TITLE VII TO THE 1964 CIVIL RIGHTS ACTM 42 USCS § 2000e-16 DOES NOT GRANT EXCLUSIVE REMEDY FOR THE ACTS PERPETRATED IN THIS CASE OR PLEADINGS

> While the concept of standing to sue is surrounded by the same complexities and vagaries that inhere in the concept of justiciability in general, nevertheless the outlines of the concept can be stated with some certainity; the indispensable requirement is that the party seeking relief allege such a personal stake in the outcome of the controversy as to assure that concrete adverseness which sharpens the presentation of issues upon which acourt so largely depends for illumination of difficult constitutional questions, and in such sense, the concept of standing focuses on the party seeking relief, rather than on the precise nature of the relief sought.
> (From separate opinion by Marshall, J., Warren, Ch. J., and Brennan, J) Jenkins v McKeithen, 395 US 411, 89 S Ct. 1843; 23 L Ed 2d 404.

The purpose of the policy of the Navy is to eliminate discrimination practices by the dissemination of its Equal Employment Opportunity Program throughout the Navy. What happens to the Navy's employment practices after the program is implemented is not of the Appellant's knowledge.

The Appellant proclaims and admits that the Appellant proclaims and admits that the Appellant is Negro and has always attested to that fact whether privately or public. The policy or practice of the Pacific Missile Test Center to advance every other legitimate claimant in its employment practices poignantly reflects a gross neglect of fact and negligence to duty.

> An employee's psychological and economic fringes are statutorily protected from employer abuse, and 42 USCS § 2000e-2 would include the eradication of working environments so heavily polluted with discrimination as to destroy completely the emotional and psychological stability of minority group workers.
> Rogers v Equal Employment Opportunity Com. (1971, CA 5) 454 F 2d 234, Cert den 406 US 957, 32 L Ed 2d 343, 92 S Ct 2058.

When and Employment Agency makes an assignment of its personnel it delegates the proper advancement of those personnel to the duties and trus of those appointed over those personnel. The practice of

the Pacific Missile Test Center's personnel who had fiduciary trusts and duties to be fair and equitable to breach that trust with acts of malicious intent directed at the participative and aspirational climb of one single individual within its command gives vent to the psychological outrage of the Appellant. When the Equal Employment Opportunity Program at the Pacific Missile Test Center is completely implemented the Appellant will still be without remedy or relief, and the Appellant repeats that he is of the Negro race.

> Negligence consists in a failure to provide against the ordinary occurences of life, and the fact that the provisions made is insufficent as against an event such as may happen once in a lifetime, or perhaps twice in a century, does not make out a case of negligence upon which an action in damages will lie. In other words, the duty to use due care arises from probabilities, rather than from bare possibilities of danger.[7]

Defendants acts and admissions and omissions would have one to believe there were no possibilities of mistakes to occur and that failure of placement was left solely within the powers of the Appellant. If one plays with fire; one can readily expect to be burned. If one is not burned one at least will know that what was played with was fire. If one plays in the dirt; one can expect to get his hands dirted. One cannot dig into the earth (dirt) and exclaim that the shovel full of one's efforts is GOLD or any other rare earth element, when a careful analysis (on sight) would reveal that it is by fact a shovel of dirt.

"Negligence is the word ordinarily used in common law terminology to express the foundation of civil liability for injury to person or property, when such injury is not the result of premeditation and formed intention. If a wrongful act is done with premeditation and formed intention the actor is of course, liable for its consequences involving injury to another person or persons, but such a case falls within one of the recognized classes of torts of which an actual, implied, or constructive intent is an element, such, for example, as assualts."[8]

---

[8] 38 American Jurisprudence, p.670, NEGLIGENCE."

Intentional unfair employment practices which are engaged in deliberately rather than accidentally; therefore discrimination based on reliance on conflicting state statutes is an intentional unfair employment practice.
Kober v Westinghouse Electric Corp. (1973, CA 3 Pa) 480 F 2d 240.

IV. IN ANY EVENT, THE COURT SHOULD NOT DECIDE THIS DIFFICULT AND IMPORTANT CASE WITHOUT FULL BRIEFING AND ARGUMENT

> Title VII is rife with procedural requirements which are sufficently labyrinthe to baffle most experienced lawyer, yet its enforcement mechanisms are usually triggered by laymen; were court to interpret statutes procedural prerequisites stringently, ultimate result would be to shield illegal discrimination from reach of Title VII; realistic approach is to take a flexible stance in interpreting Title VII's procedural provisions.
> Egelston v State University College at Genesco (1976 CA 2 Ny) 535 F 2d 752.

> While a preliminary injunction is always appropriate to grant intermediate relief of the same character as that which may be granted finally, it cannot deal with a matter lying wholly outside the issues of the suit, or provide security for compliance by the defendants with other process which conceivably may be issued for satisfaction of a money judgment for contempt.
> De Beers Consol. Mines v United States, 325 US 212, 65 S Ct. 1130; 89 L Ed 1566.

Section 2 of Article IV of the United States Constitution state s in part: " The Citizens of each entitled to all privileges and Immunities of Citizens in the several State.

Article III Sections 1 and 2 of the United States Constitution states in part: Section 1. The judicial Power of the United States shall be vested in one Supreme Court, and in such inferior Courts as as the Congress may from time to time ordain and establish.

Section 2. states: The judicial Power shall extend to all Cases in Law and Equity, arising under this Constitution, the Laws of the United States, and Treaties made, or which shall be made, under their Authority; * * * * --to Controversies * * * * between a State, or the Citizens thereof, * * * *

Amendment IX. to the United States Constitution, states fully: "The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the People."

And Amendment X. to the United States "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

Not ever to the Appellant's knowledge has the Appellant revoked his Constitutional rights under the Fourth Amendment to the United States Constitution that is:

> The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

And the Fifth Amendment which states:

> No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or Public danger; * * * * nor to be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

And of course the Fourteenth Amendment Section 1. which states:

> All persons born or naturlized in the United States and subject to the jurisdiction thereof, are citizens of of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

In addition to the infringement and abridgement of the Appellant /Plaintiff/Complainant's Constitutional rights, the Statutory provisions apply not only to appellate jurisdiction but to the statutory requirements of the Civil Rights Laws. The Appellant pleads that the Court not decide this Case without FULL BRIEFING AND ARGUMENT.

CONCLUSION

Jurisdiction is probable.

Lawrence Ray
5465 South J, #11
Oxnard, California 93030

805-932-8330 (w)
213-876-9415 (Ans.)

In Propria Personna

RECEIVED
JAN 10 1983
PHILLIP B. WINBERRY
CLERK, U.S. COURT OF APPEALS

RECEIVED
JAN 10 1983

FILED 1/10/83 jm
DOCKETED DATE

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

Department Of The Navy, et al., Plaintiffs-Appellees, vs. Lawrence Ray, Operating Accountant also known as Lawrence Earl Ray, Defendant-Appellant	No. 82-5025 DC# CV-81-2513-TJH Central California NOTICE

NOTICE OF APPEAL TO THE SUPREME COURT
OF THE UNITED STATES

Notice is hereby given that Lawrence Ray the Defendant-Appellant above-named, hereby appeals to the Supreme Court of the United States, from the 9 November, 1982 order of the United States Court of Appeals for The Ninth Circuit, which upholds the decision of the United States District Court for the Central District of California, and which holds that Article III, Section 1 and 2; Article IV. Section 1 and 2; the First, Fourth, Fifth, Ninth, Tenth and Fourteenth Amendments of and to the Constitution of the United States, and the Federal Statutes of 42 U.S.C. §s 1985, 1985(3), 1986, 1988, 2000a-1, 2000a-2, 2000e-2, 2000e-3a, 2000e-5abgj, are unconstitutional.

This appeal is taken pursuant to 28 USCS § 1292a(1) and 28 USCS § 1252.

Dated: 7 January 1983

Lawrence Ray

Lawrence Ray, In Propria Personna

NO._____

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1982

DEPARTMENT OF THE NAVY, et al.,

Plaintiffs-Appellees

v

LAWRENCE RAY,

Defendant-Appellant

On Appeal From the United States Court of Appeals

For the Ninth Circuit

APPENDICES

Of Counsel:

Lawrence Ray*
5465 South J, #11
Oxnard, California 93030

*In Propria Personna

January 6, 1983

QUESTIONS PRESENTED

1. Whether the granting of the Interlocutory Order imposed substantial barriers where it affectively precludes litigation by the Power of the Courts to dispense Indispensable Parties.

2. Whether immunity is granted by mere fact of employment to individuals jointly and severally liable to the wrongful acts for their concerted and unity of behavioral actions.

3. Whether or not Title VII to the 1964 Civil Rights Act, 42 U. S. C. S. § 2000e-16 grants exclusive remedy for the acts perpetrated in this case.

4. Whether, the plea should be granted as to the Court deciding this difficult and important case without full briefing and argument.

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FILED
NOV 9 - 1982
PHILLIP B. WINBERRY
CLERK, U.S. COURT OF APPEALS

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

DEPARTMENT OF THE NAVY, et al., Plaintiffs-Appellees, vs. LAWRENCE RAY, OPERATING ACCOUNTANT, also known as LAWRENCE EARL RAY, Defendant-Appellant.	No. 82-5025 DC# CV-81-2513-TJH Central California ORDER

Before: PREGERSON and POOLE, Circuit Judges

Appellees' motion to dismiss the appeal is granted. An order of the trial court dismissing some but not all of the defendants is not a final decision appealable under 28 U.S.C. § 1291. See Fed. R. Civ. P. 54(b). This order is without prejudice to any appeal appellant may file after final judgment is entered.

MoCal 11/1/82

ORIGINAL

ANDREA SHERIDAN ORDIN
United States Attorney
FREDERICK M. BROSIO, JR.
Assistant United States Attorney
Chief, Civil Division
HERBERT W. BOOKER
Assistant United States Attorney
1100 United States Court House
312 North Spring Street
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Attorneys for Defendants

LODGED

Nov 2 4 23 PM '81

CLERK U.S. DISTRICT COURT
CENTRAL DIST.

BY _____

FILED

NOV 23 1981

CLERK, U.S. DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
BY DEPUTY

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

LAWRENCE RAY, OPERATING ACCOUNT, also known as LAWRENCE EARL RAY,

Plaintiff,

v.

DEPARTMENT OF THE NAVY, et al.

Defendants.

NO. CV 81-2513-TJH(Px)

ORDER TO DISMISS PARTIES

ENTERED

NOV 25 1981

CLERK, U. S. DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
BY DEPUTY

The defendants Motion To Dismiss came on for hearing before this Court on November 23, 1981. The plaintiff appeared in propria persona, and the defendants appeared through their counsel, Andrea Sheridan Ordin, Frederick M. Brosio, Jr. by Herbert W. Booker. After reviewing the pleadings, memorandum filed herein, and the oral argument of the parties and their representatives:

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///

EWB:dw
Form OBD-183
12-8-76 DOJ

IT IS HEREBY ORDERED, ADJUDGED AND DECREED, that the defendants Richard H. Rochon, Robert J. Savala, Harold D. Reich, D. W. Millspaugh, and F. A. Meneely are hereby dismissed from this action. ~~The defendants are awarded their costs of this action.~~ It is further ordered that the plaintiff shall have thirty (30) days from the entry of this order to serve the remaining defendants in this matter.

DATED: This 23rd day of November, 1981.

UNITED STATES DISTRICT JUDGE

PRESENTED BY:

ANDREA SHERIDAN ORDIN
United States Attorney
FREDERICK M. BROSIO, JR.
Assistant United States Attorney
Chief, Civil Division

HERBERT W. BOOKER
Assistant United States Attorney

Attorneys for Defendants

USA-080-183
3-3-76 DOJ

DEPARTMENT OF THE NAVY
COMMANDER
PACIFIC MISSILE TEST CENTER
POINT MUGU, CALIFORNIA 93042

IN REPLY REFER TO:
0000
12713
Ser A 389

20 MAR 1980

Mr. Lawrence Earl Ray
731 Janetwood #11
Oxnard, CA 93030

Dear Mr. Ray:

In your Discrimination Complaint of 14 December 1979, you listed five concerns identified as issues A, B, C, D, and E. My letter to you of 22 January 1980 accepted for processing issues A and B, rejected issue C and asked you to provide more specific information regarding issues D and E. Your letter to me of 5 February 1980, while providing background information, still left room for further clarification regarding issues D and E. My letter to you of 28 February again asked you to further clarify issues D and E specifically identifing time frames for the alleged discriminatory actions.

The purpose of this letter is to inform you I have received your letter of 11 March 1980 and to inform you that after carefully reviewing the information submitted, I have decided to reject issues D and E on the basis of timeliness.

As stated to you in my letter of 22 January 1980 discrimination complaint guidelines state that in order for an allegation of discrimination to be accepted, an employee must seek counseling on the matter within 30 calendar days from the date of the alleged discriminatory act, or if a personnel action, within 30 calendar days from the effective date of the action.

Issues D and E clearly fall considerably outside of the afore described time limits.

My decision to reject allegations identified as items D and E constitutes the final Department of the Navy decision on those allegations. You may appeal to the Director, Office of Appeals and Review, Equal Employment Opportunity Commission (EEOC), 2401 E Street, N.W., Washington, D. C. 20506, within 15 calendar days of the receipt of this decision. The appeal and any representations in support thereof must be submitted in duplicate. In lieu of an appeal to the Commission, you may file a civil action in an appropriate U.S. District Court within 30 days of receipt of this decision. If you elect to appeal to the Commission's Office of Appeals and Review, you may file a civil action in a U.S. District Court within 30 days of receipt of the Commission's final decision. A civil action may also be filed any time after 180 days of the date of initial appeal to the Commission if a final decision has not been rendered.

0000
12713
Ser A 389

20 MAR 1980

If you wish technical advice or assistance concerning this matter, you may contact Mr. Charles Gartman of the EEO staff at 982-8939.

Sincerely,

J. M. HALLMAN
Captain, U.S. Navy
Commander, Pacific Missile Test Center
Acting

Copy to:
NCPC-WFD

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
WASHINGTON, D.C. 20506

Lawrence Earl Ray,
Appellant,

v.

Department of the Navy,
Appellee.

Appeal No. 01800734

DECISION

INTRODUCTION

On February 6, 1980, Lawrence Earl Ray (hereinafter referred to as appellant) initiated an appeal from the final agency decision of the Department of the Navy (hereinafter referred to as agency) rendered January 22, 1980, on his equal employment opportunity complaint of discrimination based on race (black) and national origin (born in Shelley, Texas, not in Ventura County) in violation of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. Sec. 2000e et seq. The appeal was accepted by the Commission in accordance with the provisions of EEOC Order No. 960, as amended, dated January 2, 1979.

BACKGROUND

Appellant alleged that he was discriminated against because he (a) was not promoted; (b) was given an unfair performance evaluation and rating; (c) was given an unfair merit promotion appraisal; (d) was given an unfair position description and classification; and (e) was psychologically harassed. The agency accepted allegations "a" and "b" for processing on the basis of racial discrimination. National origin was rejected as a basis because appellant did not allege foreign extraction. Allegations "c", "d" and "e" were rejected as untimely since the alleged discrimination occurred more than 30 days prior to appellant contacting the EEO Counselor in October 1979.

ANALYSIS AND FINDINGS

The agency rejection of appellant's allegations of discrimination based on national origin was proper. National origin in the context of Title VII, supra, refers to the country where a person was born or the country from which his ancestors came. It does not embrace the concept of citizenship of a town or county. See Espinoza v. Farah Mfg. Co., 414 U.S. 86 (1973).

As regards the agency rejection of allegations "c", "d" and "e", the agency finding of untimeliness was correct. Appellant first contacted the EEO Counselor on or about October 9, 1979. The allegedly unfair merit promotion appraisal was given in March 1979, and the allegedly unfair position description and classification arose in September 1977. Additionally, although appellant listed many incidents beginning in 1973 to support his allegations of psychological harassment, none occurred within 30 days of his contact with the EEO Counselor. Therefore, the agency rejection of allegations "c", "d" and "e" were proper pursuant to EEOC Regulation 29 C.F.R. Sec. 1613.214(a)(1)(i) which requires that a complainant contact the EEO Counselor within 30 days of the time of the alleged discrimination.

CONCLUSION

Based on a review of the record in this case, the decision of the Equal Employment Opportunity Commission is to affirm the final agency decision.

NOTICE OF RIGHT TO FILE A CIVIL ACTION

Pursuant to 29 C.F.R. Sec. 1613.282, the appellant is hereby notified that this decision is final and that he has the right to file a civil action in the appropriate United States District Court within thirty (30) days of the date of receipt of this decision.

NOTICE OF RIGHT TO REQUEST REOPENING

The appellant and the agency are hereby notified that the Commissioners may, in their discretion, reopen and reconsider any previous decision when the party requesting reopening submits written argument or evidence which tends to establish that:

1. New and material evidence is available that was not readily available when the previous decision was issued;

2. The previous decision involves an erroneous interpretation of law or regulations or misapplication of established policy; or

3. The previous decision is of precedential nature involving a new or unreviewed policy consideration that may have effects beyond the actual case at hand or is otherwise of such an exceptional nature as to merit he personal attention of the Commissioners.

This notice is in accord with 29 C.F.R. Sec. 1613.235. The agency's attention is directed to 29 C.F.R. Sec. 1613.235(b) for time limitations on agency requests to reopen.

FOR THE COMMISSION:

10/7/80
DATE

Irena [illegible]
Acting Executive Officer
Executive Secretariat

NO._____

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1982

DEPARTMENT OF THE NAVY, et al.,

Plaintiffs-Appellees

v

LAWRENCE RAY,

Defendant-Appellant

On Appeal From the United States Court of Appeals

For the Ninth Circuit

APPENDICES

Of Counsel:

Lawrence Ray*
5465 South J, #11
Oxnard, California 93030

*In Propria Personna

January 6, 1983

731 Janetwood #11
Oxnard, California 93030
5 February 1980

F. H. Baughman
Rear Admiral, U.S. Navy
Commander
Pacific Missile Test Center
Code 0000
Point Mugu, California 93042

Subj: Clarification of vague or general allegations; submission of additional information

Ref: (a) Commander, Pacific Missile Test Center, Point Mugu, California ltr. 0030/12713 Ser: A-80; dtd. 22 January 1980.

(b) Ltr. Discrimination Complaint of Lawrence Earl Ray, dtd. 11 December 1979.

1. In regards to the request, the following statements are submitted to to clarify specifically the vague or general statements designated in paragraph II, sub-paragraph D and E of reference (a) resulting from statements submitted in reference (b).

a. Unfair Position Description and Classification, (Sub-paragraph D):

(1) Position is that of an Operating Accountant in the Tennant Accounting Section. For no apparent reason I was transferred to the Tennant Accounting Section.

(2) Position description is a complete downgrading of position held.

b. Psychological Harasshment, (Sub-paragraph E):

(1) Mr. Richard H. Rochon, Mr. Robert J. Savala, Mr. Harold D. Reich; by intent and/in case of negligence, have, by design, inflicted psychological harasshment upon my person with attempts to inflict psychological injury because of my race and skillful manuvered their acts, whereas there is no alterna- except to file an Equal Employment Opportunity Complaint.

Subj: Clarification of vague or general allegations; submission of additional information

(2) Complaints are specifically filed against them for far-reaching conclusive and connecting acts of harasshment stemming from a singular and independent psychological harassing base:

		--Reason--	
(a)	Mr. Richard H. Rochon --	Mental ability	(Performance & potential)
(b)	Mr. Robert J. Savala --	Mental attitude	(Ability to get along with others)
(c)	Mr. Harold D. Reich --	Aspiration	(Association)

MR. RICHARD H. ROCHON

After suggesting that I attend EEO classes or by the suggestion of Mrs. Billy Brown, Mr. Rochon informed me to attend and be a member of the Equal Employment Opportunity Committee. I did not prefer to become involved with the Equal Employment Opportunity Program. Not that I do not wish to be equally employed but I felt and still feel that the program has an inherent discourtesy to upper management and overlaps or acts as some unsubstantiated guardian angel to the Personnel Department.

Since, Mr. Rochon suggested that I be a member of the Equal Employment Opportunity Committee and was given a Job Order for which I was to charge off time spent in the Equal Employment Opportunity Committee I accepted.

After I had completed the year on the EEO Committee and was on a training schedule, when the training was completed I was permanently assigned from my previous position to the Review Group.

Sometime later co-worker Mr. John Lawrence was promoted to the grade of GS-11.

5 February 1980

Subj: Clarification of vague or general allegations; submission of additional information

MR. RICHARD H. ROCHON Cont'd

I asked for a promotion shortly after. Mr. Rochon informed me that I shouldn't ask for a promotion because someone else had one. He told me he wasn't promoting any one and "Dammit get another Job and stay out of his office. and he could give me an assignment that would tear me to pieces."

I was taken aback by this because Mr. Rochon had suggested that I become a member of the EEO Committee, I felt then that he would not be disheartening enough to discriminate against me because of my race.

I applied for a Job as an Administrative Officer, Mr. Rochon graded me on potential--for which he established his psychological basis to discriminate against me because of mental ability. His conclusive act of demeaning is Association.

MR. ROBERT J. SAVALA

The first encounter with Mr. Savala that would indicate he would discriminate against me because of mental attitude for which I believe he construed and attempted to build up a reservior of mental outbursts.

I was extended the invitation by Mr. Savala to join the Comptroller Bowling League. I did not join, since at that time I was suffering from an alledged intestinal disorder.

There was a request from the Budgeting Division to review some contracts for the possible recapture of funds. Mr. Savala told me to initial the memorandum and he would send it back to the Budgeting Division as proof of

validation of funds. And further stated that if the Budgeting Division gave any discourse he would tell them a piece of his mind (in so many words).

I refused to initial the memorandum and received permission from Mr. Beard the Head, of the Accounting Division to review the contracts.

I thought no more of the matter of possible incoherent work-relationship with Mr. Savala until I applied for the Systems Accountant position. Mr. Savala rated me next to the highest score in knowledge and gave 2's or satisfactory on those Job Elements that had a clause or indication of interface or interpersonal behavior with persons or groups. I was told by the Examiner in the Personnel Department that the reason I was not scoring high enough on ranking panels was because of my Supervisory Appraisals.

I talked to Mr. Savala about it. He said he had graded me as a potential to a GS-12. I asked if he shouldn't have graded me as a GS-9.

I thought that by being in the same division that I would be able to substantiate my competence to Mr. Savala.

When I was a Supervisory Operating Accountant, there was an uproar in the section I supervised. Mr. Savala was then my supervisor. He had me moved as my being the cause of the uproar, (which I wasn't), stating that he wouldn't let anyone upset him.

I was able to accept this until while transferred back in the Review Group--Mr. Rochon and Mr. Savala conducted a wide scale harasshment of Accounting Division Personnel.

Subj: Clarification of vague or general allegations; submission of additional information

MR. ROBERT J. SAVALA Cont'd

They partioned off the Accounting Division. Broke up intergroup and group relationships. Requested intensive study of Accounting Division personnel and workload status. Then made the statement that Accounting Division personnel were advanced beyond their capabilities.

Mr. Savala made off the wall statements that the former Head, of the Accounting Division (recently deceased) did not do his job. "I have been living in Ventura County all my life. And an isolated statement the word, "Attitude."

Attempts we re made to put pressure on employees when morale was exceptionally low by virtue of their proving their incompetence and the overbearing threats of riffs and cut backs by the Department of Defense.

When I applied for the Administrative Officer position and did not get an evaluation except for potential, in a conference with Mr. Rochon about the Supervisory Appraisal given me Mr. Savala appeared with tears in his eyes.

I thought it feasible to file a discrimination complaint against Mr. Rochon and Mr. Savala.

I had no further interface with Mr. Savala until acceptance of the final disposition I applied for a job in the Public Works Department. Mr. Savala and Mr. Reich graded me all 2's.

I conferred with an EEO Counselor requesting transfer out of the Accounting Division. I then removed Mr. Savala's name from being inquired for a Super isory Appraisals on SF 171's.

Subj: Clarification of vague or general allegations; submission of additional information

MR. ROBERT J. SAVALA Cont'd

Mr. Savala always spoke to me after that until about a year ago in a conference in the Tenant Accounting Section with his rear-end he pushed my In-Basket back on my desk. From then on it has been a cool off hand approach. It is for those reasons and others that I did not apply for the positions advertised in the branch he supervises. His conclusive act is Association.

MR. HAROLD D. REICH

The first encounter with Mr. Reich, I had no fixed impression as to what type of person he was although I thought at the time we had a personality clash and thought that I was to blame.

He tended to place everything on a technical basis including emotions.

We got along fine, except there was no work assignments and when there were assignments he took them away from me. For example, the assignment about the contract review dispute I had with Mr. Savala. He came out and got the contracts from me and then I went in to see Mr. Beard for permission to review the contracts.

He would grant me leave (as a favor) but under extenuating circumstances. For instance, when he and Mr. Savala was out for lunch and came back with one or two drinks too many he told me to take off. I was caught off guard, but, he was watching my reactions.

I had no more interface with Mr. Reich except I had requested, On The

Subj: Clarification of vague or general allegations; submission of additional information

MR. HAROLD D. REICH Cont'd

Job Training. He pretended to be very upset with the Administrative Officer of the Supply Department, a Negro Woman (Mrs. Mary Mason) about being granted the use of the Supply Conference Room.

Mr. Reich received a Job in the Budgeting Division and left the Accounting Division while I was on rotational training assignments within the Accounting Division.

I had no other interface with him until he returned as Head of the General Accounting Branch.

He was on the ranking panel for the job of Systems Accountant and he should have been contacted to send in a Supervisory Appraisal for the position of Administrative Officer.

After Mr. Reich returned to the Accounting Division as Head of the General Accounting Branch. My position was placed under the General Accounting Branch. Mr. Reich then refused to let the Quarterly Review Report be submitted to the Head of the Accounting Division. After that he refused to approve it to have it typed. Another lady (Mrs. Maria Csanada) was given my j b.

Then, Mr. Reich talked to the Head, of the Accounting Division and requested that I be allowed to train in the Budgeting Division. This was after I had talked to Mr. Otis Shepherd an EEO Counselor and Mr. E. L. Williams (Deputy Comptroller) of the possibility of being transferred out of the Accounting Division. Since, again I was given 2's on a Supervisory Appraisal form for a position I had applied for in the Public Works Department.

Subj: Clarification of vague or general allegations; submission of additional information

MR. HAROLD D. REICH Cont'd

I was employed in the Budget Division for one year and later returned to the Accounting Division unable to be placed in the Budgeting Division.

I returned to the Accounting Division and found that my position description had been abolished and a new one was written.

After some time working in the Accounting Division I was notified by Mr. Reich that I was transferred to the Tennant Accounting Section, (NTE beyond 31 December 1978.) I later found out that I had a permanent transfer.

I applied on many jobs at this activity and other activities. Mr. Reich showed me one Supervisory Appraisal form for the position of an Auditor at the Great Lakes Naval Base in Great Lakes, Illinois, on it was all 4's and one 3. He commented that he gave me those marks because, "They wanted to get rid of me."

I was enthusiastic about leaving because I wanted to get out of the Accounting Division.

I had no concrete reason to believe that Mr. Reich had any reason to want to get rid of me since he had submitted my name to be a Keyman and a Keyperson for the CFC. Of course I found it perculiar that he contributed nothing to the campaign.

I had to get the approval of the Head of the Accounting Division to work overtime in order to get my job under under control.

The last act of harasshment was the Performance Evaluation Appraisals submitted by Mr. Reich that had far reaching consequences, such as:

5 February 1980

Subj: Clarification of vague or general allegations; submission of additional information

MR. HAROLD D. REICH Cont'd

a. Abusing the system by taking unfair advantage of time lags by taking administrative actions that vents emotional reactions with far-reaching consequences.

b. Performance Evaluation is demeaning.

(1) Resents it, but finds its objection (to put in words) is the same basically in the negative as an outstanding would be positively, i.e. to positively counteract the psychological impact.

(2) Evaluated at an aspirational level and not for ability, i.e. my ability or inability to get along with others. Stressed as being the only difficult person in the Accounting Division.

(3) Last evaluation form was filled out in pencil by Mr. Lewis Lawson. First there was a note telling me to fill it out myself in pencil and he (Mr. Lawson) would write it out in ink. I refused and told Mr. Lawson so. Apparently Mr. Lawson turned it over to Mr. Reich and Mr. Reich filled it out.

Mr. Reich's conclusive discriminatory action is that of mental ability.

2. The aforementioned statements are submitted to clarify that by my Position Description being unfair to the placement I should merit by my professional status and the Performance Evaluation was done and the other actions as stated to have far-reaching consequences over an extended period of time to psychologically harass and to do harm because of my race, by skillful manuvers within the system to inflict psychological damage through interpersonal reactions, timeliness of complaints and attempts to insert a psychological basis through deceitfully distorting efforts and attempting to inflict psychological harm by channeling mental attitudes adversely, erecting blockades to aspiration and degenerating my mental ability.

Lawrence Earl Ray

Lawrence Earl Ray

731 Janetwood #11
Oxnard, California 93030
11 March 1980

F. H. Baughman,
Rear Admiral, U. S. Navy
Commander
Pacific Missile Test Center
Code 0000
Point Mugu, California 93042

Subj: Clarification of Issues D and E; submission of additional information.

Ref: (a) Commander, Pacific Missile Test Center, Point Mugu, California; ltr. 0030/12713 Ser: A-294; dtd. 28 February 1980

(b) Ltr. Clarification of vague or general allegations; submission of additional information of Lawrence Earl Ray, dtd. 5 February 1980.

(c) Ltr. Discrimination Complaint of Lawrence Earl Ray, dtd. 11 December 1979.

Encl: (1) List, by Month and Year of specific actions of Mr. Richard H. Rochon considered to be psychological harasshment.

(2) List, Month and Year of specific actions of Mr. Robert J. Savala considered to be psychological harasshment.

(3) List, by Month and Year of specific actions of Mr. Harold D. Reich considered to be psychological harasshment.

1. In response to reference (a), reference (b) was submitted to clarify issues stated as vague or general allegations in the filing of a discrimination complaint submitted by reference (c).

2. In view of the fact or the assumption that there is a close similarity in the grievance procedures (for adverse actions) of the Equal Employment Opportunity Commission policy and the grievance procedures of the Federal Labor-Management Relations Program or policy procedures

11 March 1980

Subj: Clarification of Issues D and E; submission of additional information.

for which they may connect of overlap; and inview of the fact of the congruent, connecting and overlapping acts of Mr. Richard H. Rochon, Mr. Robert J. Savala and Mr. Harold D. Reich were committed by design, and in case of negligence through their intent to psychologically harassh me because of my race through singular (synonymous and antonymous) efforts to affect and effect my person by the emotional far-reaching and long-range consequences of their actions and impact of their actions; the following information, as requested, is respectively submitted.

a. In regards to issue D the following information is submitted:

1. I was transferred to the Tennant Accounting Section September, 1977.

2. I was assigned to my current position in June, 1978.

3. To my knowledge, I have never had a position description review.

b. In regards to issue E, enclosures (1), (2) and (3) are submitted.

Sincerely,

Lawrence Earl Ray

Lawrence Earl Ray

Specific discriminating actions of Mr. Richard H. Rochon.

MENTAL ABILITY (Performance and Potential)

Sept. 1973 — Informed me to attend and be a member of the Equal Employment Opportunity Committe.

Jan. 1974 — Refused to promote me on the grounds that I was asking because someone else had a promotion.

Jan. 1974 — Issued a policy of non-promotion.

Jan. 1974 — Informed me to stay out of his office and he could give me an a-signment to tear me to pieces. His exact words, "Dammit, get another Job."

Under his administration as Head of the Accounting Division. (My position being that of a Systems Accountant.)

a. Threats by the Department of Defense to cut back employees-- that could result in loss of jobs.

b. The previous Head of the Accounting Division retired without warning with the rumor that there were moral charges that caused it. Two months later he died.

Mar. 1974 through Dec. 1974

c. Previous to his retirement the previous Assistant Head left for another job.

d. Mr. Rochon after asking for copies of all Accounting Division employees' SF-171's, announced that most or all of the Accounting Division employees were advanced beyond their capabilities and proceeded to hire at the GS-2 and GS-3 level.

e. Issued a policy of no promotions.

f. Designed the Accounting Division externally where it does not aid to maintaining solidarity and cohesion within the Accounting Division, by partioning off the Accounting Division, whereas, attempts appear to have been made by management to break up informal groups and to put pressure on employees at a time when morale was exceptionally low, whereas, individuals would feel receptive and justified to instigate acts of sabotage, espionage and mutiny to repel managerial policies.

g. Employees were angry and some told this too Mr. Rochon.

h. I was receiving assignments from at least three different people

Specific discriminating actions of Mr. Richard H. Rochon cont'd.

Mar. 1974 through Dec. 1974	i. Mr. Rochon began to keep his door closed most of the time shutting out communication and interpersonal relationships with subordinates.
	j. Mr. Rochon played musical chairs with Mr. Savala's office. From the way it was played one couldn't tell who was who accept by announcement.
Mar. 1974 through Dec. 1974	At a time when morale was low in the Accounting Division-- stating that Accounting Division personnel were promoted beyond their capabilities and then excluding me from all meetings with fellow co-workers of my status and peer--later accusing me of not communicating interpersonally with co-workers where normally such conditions would result in justifiable subterfuge to instigate acts of sabotage and treason to the confidence of my superiors.
	Threatened to give me assignments that would prove my incapabilities and never giving those assignments.
	All directives, instructions and changes in policies were disseminated into my office.
Sept. 1974	Was graded only on potentials for the position of Administrative Officer #3100-84-4 of September, 1974.

Specific discriminating actions of Mr. Robert J. Savala.

MENTAL ATTITUDE (Ability to get along with others)

I was extended the invitation by Mr. Savala to join the Comptroller Bowling League. I did not join, at the time I was suffering from an allegded intestinal disorder.

Sept. 1970 — There was a request from the Budgeting Division to review some contracts for the possible recapture of funds. Mr. Savala told me to initial the memorandum and he would send it back to the Budgeting Division as proof of validation of funds. And further stated that if the Budgeting Division gave any discourse he would tell them a piece of his mind (in so many words).

I refused to initial the memorandum and received permission from Mr. Bbard the Head, of the Accounting Division to review the contracts.

Aug. 1973 — I applied for the Systems Accountant Position, COM-130-10-2 August, 1973. Mr. S.vala rated me next to the highest score in knowledge and gave 2's or satisfactory on those Job Elements that had a clause or indication of interface or interpersonal behavior with persons or groups. I was told by the Examiner in the Personnel Department that the reason I was not scoring high enough on ranking panels was because of my Supervisory Appraisals.

Dec. 1974 — I talked to Mr. Savala about it. He said he had graded me as a potential to a GS-12. I asked if he shouldn't have graded me as a GS-9. I thought that by being in the same division that I would be able to substantiate my competence to Mr. Savala.

Mar. 1973 — When I was a Supervisiory Operating Accountant, there was an uproar in the section I supervised. Mr. Savala was then my supervisor. He had me moved as my being the cause of the uproar, (which I wasn't), stating that, he wouldn't let anyone upset him.

Mar. 1974 — I was able to accept this until while transferred back into the Review Group, there was wide scale harasshment of Accounting Division personnel.

Mar. 1974 through June 1974 — After the Head of the Accounting Division with Mr. Savala as his assistant requested copies of all Accounting Division employees' SF-171's, announced that most or all of the Accounting Division employees were advanced beyond their capabilities and proceeded to hire at the GS-2 and GS-3 level. Mr. Savala told me personally that the work I was doing should be done by a GS-2 or GS-3.

Specific discriminating actions of Mr. Robert J. Savala cont'd.

Mar. 1974	Mr. Savala stated that the former Head of the Accounting Division, Mr. Beard (recently deceased) did not do his job.
Mar. 1974 through June 1974	Mr. Savala played musical chairs with Mr. Rochon's office. It was confusing. One did not know who was who except by announcement.
Mar. 1974	Mr. Savala requested a feasibility study to be conducted by me for the possible consolidation of the RMS and NIF Accounting Job Order Desk functions. While conducting this study, Mr. Savala made the statement, "I have been living in Ventura County all my life." and then he made an isolated statement "Attitude!" later on.
Dec. 1974	Mr. Savala began to keep his door closed most of the time shutting out communication and interpersonal relationships.
Apr. 1974	I was denied promotion by Mr. Savala on the grounds of future assignments.
Dec. 1974	When I applied for the Administrative Officer position and did not get an evaluation except for potential, in a conference with Mr. Rochon about the Supervisory Appraisal given me, Mr. Savala appeared in the doorway with tears in his eyes.
Nov. 1975	Upon acceptance of the Final Disposition on the EEO complaint, Mr. Savala graded me all 2's on the job applied for in the Public Works Department. I conferred with an EEO counselor requesting transfer out of the Accounting Division. I then removed Mr. Savala's name from being inquired for a Supervisory Appraisal on SF-171's submitted by me.
Mar. 1978	Mr. Savala always spoke to me after that until about a year ago in the conference in the Tenant Accounting Section with his rear-end he pushed my In-Basket back on my desk. From then on it has been a cool off-hand approach.

Specific discriminating actions of Mr. Harold D. Reich

ASPIRATION (association)

The first encounter with Mr. Reich, I had no fixed impression as to what type of person he was although I thought at the time we had a personality clash and I thought that I was to blame.

He tended to place everything on a technical basis including emotions. There are about four emotions that Mr. Reich has shown: Smiles, Tears, Frustrated Anger and Anger.

Dec. 1977

a. His <u>smiles</u> are not associated with anything or anybody. It would appear that they are reactionary in the line of duty. (i. e. when he gave the evaluation for the position in Great Lakes, Illinois, #77-209), he was smiling when he told me he gave me a high ranking because they were trying to get rid of me.

1976, intermittently, continuous and frequent.

b. His <u>tears</u> are associated with being bothered, that is, being forced to grantoor perform something that is beyond the call of duty.

Sept. 1970

c. <u>Frustrated Anger</u>, was shown toward the Administrative Officer of the Supply Department, a Negro woman. Mrs. Mary Mason about being granted the use of the Supply conference Room.

Sept. 1973

d. <u>Anger</u>, was shown at Mr. H. Grady Beard's memorial service.

Oct. 1970

He would grant me leave (as a favor) but under extenuating circumstances. For instances, when he and Mr. Savala were out for lunch and came back with one or two drinks too many he told me to take off. I was caught off guard, but, noticed and felt strange that he was watching my reactions.

Aug. 1973

Sept. 1974

He was on the ranking panel for the job as Systems Accountant and he should have been contacted to send in a Supervisory Appraisal for the position of Administrative Officer.

July 1975

After Mr. Reich returned to the Accounting Division as Head of the General Accounting Branch. My position was placed under the General Accounting Branch. Mr. Reich then refused to let the Quarterly Review Report be submitted to the Head of the Accounting Division, Mr. Richard H. Rochon. After that he refused to have it typed. Another lady (Mrs. Maria Csanadi) was given my job.

Dec. 1975	I was graded 2's on a Supervisory Appraisal form for a position I had applied for in the Public Works Department as a Final Disposition on the EEO complaint I had filed against Mr. Rochon and Mr. Savala.
Mar. 1976	Mr. Reich talked to the Head of the Accounting Division and requested that I be allowed to train in the Budgeting Division. This occured after I had talked to Mr. E. L. Williams (Deputy Comptroller) of the possibility of being transferred out of the Accounting Division.
Sept. 1977	After sometime working in the Accounting Division I was notified by Mr. Reich that I was transferred to the Tenant Accounting Section.
Skpt. 1975	He submitted my name to be a Keyman and a Keyperson for the Combined Federal Campaign without inquiring me. After my soliciting to him for contribution he refused and stated that "I wouldn't be able to get that out of him".
Between Mar. 1977 and Sept. 1978	I was invited by Mr. Reich to attend his church. He said he would pick me up. I refused. He then asked me all the Television programs I watched. I told him. He also said he felt all theatrical works and all art should be sanctioned by the Church.
Dec. 1979	Had to get the approval of the Head of the Accounting Division to work overtime to get my Job under control.

Performance Evaluation is demeaning:

a. Evaluation form was filled out in pencil by Mr. Lewis Lawson. First there was a note telling me to fill it out myself in pencil and he (Mr. Lawson) would write it out in ink. I refused and told Mr. Lawson so. Apparently, Mr. Lawson turned it over to Mr. Reich and Mr. Reich filled it out.

Mar. 1978

b. Evaluated at an aspirational level and not for ability, i.e. my ability to get along with others.

c. Resents the Performance Evaluation, but finds its objection (to put in words) is the same basically in the negative as an outstanding would be positively, i.e. to positively counteract the psychological impact.

STATE OF CALIFORNIA)
PACIFIC MISSILE TEST CENTER) ss
POINT MUGU)
COUNTY OF VENTURA)

AUGUST 24, 1981

AFFIDAVIT OF FLOYD A. MENEELY

I, Floyd A. Meneely being duly sworn that:

Retired from Civil Service since 29 February 1980. My last job was that of Comptroller of the Pacific Missile Test Center, Point Mugu, California. I held this job (Pacific Missile Test Center Comptroller) from December 1975 until retirement. My earlier jobs were with the Naval Air Systems in Washington DC.

In carrying out my duties as Comptroller, I was never aware of any job discrimination toward Mr. Ray who was a Comptroller Department employee during my tenure as Comptroller.

Many allegations were made, but I, my staff, Civilian Personnel Officer, ~~or~~ and (illegible) specially appointed Command Task Force found no basis for Mr. Ray's complaints.

Any allegation of Mr. Ray of conduct on my part occurred in connection with the performance of my official duties.

Floyd A. Meneely

FLOYD A. MENEELY

State of California
County of Ventura

On this the 24th day of August 1981, before me Carolyn A. Runnells, the undersigned Notary Public, personally appeared Floyd A. Meneely known to me to be the person whose name is subscribed to the within instrument and acknowledged that he executed the same for the purposes therein contained. In witness whereof, I hereunto set my hand and official seal.

Carolyn A. Runnells

OFFICIAL SEAL
CAROLYN A RUNNELLS
NOTARY PUBLIC - CALIFORNIA
VENTURA COUNTY
My comm. expires APR 27, 1984

EXHIBIT C

STATE OF CALIFORNIA)
PACIFIC MISSILE TEST CENTER)
ss
POINT MUGU)
COUNTY OF VENTURA)

24 August 1981

AFFIDAVIT OF ORVILLE W. MILLSPAUGH

I, Orville W. Millspaugh, being duly sworn say that:

I am and have been since 9 September 1968 a first line supervisor in the Accounting Division, Comptroller Department, Pacific Missile Test Center, Point Mugu, California.

On or about 22 December 1974, I was assigned duties as first line supervisor of General Accounting Branch of the Accounting Division and in that position, as in all positions held at Pacific Missile Range (now Pacific Missile Test Center) I was assigned as first line supervisor of the plaintiff at various periods of time.

Any allegations of Mr. Ray of conduct on my part occurred in connection with the performance of my duties as a supervisor of Mr. Ray.

Orville W. Millspaugh

ORVILLE W. MILLSPAUGH

State of California
County of Ventura

On this the 24th day of August 1981, before me, Carolyn A. Runnells, the undersigned Notary Public, personally appeared Orville W. Millspaugh known to me to be the person whose name is subscribed to the within instrument and acknowledged that he executed the same for the purposes therein contained.
In witness whereof, I hereunto set my hand and official seal.

Carolyn A. Runnells

OFFICIAL SEAL
CAROLYN A RUNNELLS
NOTARY PUBLIC - CALIFORNIA
VENTURA COUNTY
My comm. expires APR 27, 1984

EXHIBIT A

DEPARTMENT OF THE NAVY
COMMANDER
PACIFIC MISSILE TEST CENTER
POINT MUGU, CALIFORNIA 93042

IN REPLY REFER TO:
0030
12713
Ser A-80
22 JAN 1980

Mr. Lawrence Earl Ray
731 Janetwood #11
Oxnard, California 93030

Dear Mr. Ray:

The purpose of this letter is to inform you that portions of your discrimination complaint of 14 December 1979 have been accepted for processing.

Based on a review of your discrimination complaint of 14 December 1979 and the Equal Employment Opportunity (EEO) Counselors Report of Carl Nickens, it is my understanding that you are alleging that you have been discriminated against because of your race (Black) and your national origin (born in Shelby, Texas-not Ventura County) by Mr. F. A. Meneely, Mr. O. W. Millspaugh, Mr. R. H. Rochon, Mr. R. J. Savala and Mr. H. D. Reich all of the Comptroller's Office as follows:

A. As a result of discrimination on the basis of your race and national origin, you have been denied promotion on all jobs applied for from August 1973 through July 1979.

B. As a result of discrimination on the basis of your race and national origin, you have received unfair merit promotion supervisory evaluations (form 11ND-PMTC-12335/2).

C. As a result of discrimination on the basis of your race and national origin, you have received unfair performance evaluation ratings (form 11ND-PMTC-12430/5).

D. As a result of discrimination on the basis of your race and national origin, you have received an unfair position description and classification.

E. As a result of discrimination on the basis of your race and national origin, you have been the victim of psychological harassment.

You alleged that your race (Black) and your national origin (born in Shelby, Texas-not Ventura County) are the specific reasons for actions that you perceive to be discriminatory. Discrimination complaint guidelines (CFR 1613) do allow complaints to be accepted under the basis that discrimination occurred because of race and national origin. However, national origin pertains to persons born outside the United States. For this reason your complaint will be processed on the basis that your race is the single factor which has given rise to the incidents you perceive to be discriminatory.

0030
12713
Ser A-80
22 JAN 1980

In your complaint you have identified five individuals as alleged discriminatory officials. After carefully reviewing the EEO Counselors Report and talking to your counselor, Mr. Nickens, it appears that during the counseling process you identified three individuals as alleged discriminatory officials. Therefore, only Mr. Meneely, Mr. Millspaugh, and Mr. Reich as identified in the counseling process will be considered as alleged discriminatory officials.

Issue A of your complaint alleges denial of promotion as a result of racial discrimination on all jobs applied for from August 1973 through July 1979. Discrimination complaint guidelines state that in order for an allegation of discrimination to be accepted, an employee must seek counseling within 30 calendar days from the date of the alleged discriminatory act or if a personnel action, within 30 calendar days from the effective date of the action. After reviewing the EEO Counselors Report and reviewing merit promotion case files, it appears that two positions you have applied for meet this time requirement; (i.e., effective date on SF 50 of selectee was within 30 calendar days of initial interview). Therefore, your issue A will be accepted for processing as follows:

As a result of discrimination on the basis of your race Mr. Meneely did not select you on Merit Promotion Cases #303-GF-79 and #410-GF-79.

Issue B alleges that as a result of racial discrimination you received low ratings on Merit Promotion Supervisory Evaluations on each promotional opportunity applied on from August 1973 through July 1979. Again, I must point out that for an allegation of discrimination to be accepted it must be brought to the attention of an EEO Counselor within the aforementioned 30 day time limit. Based upon a review of merit promotion case files of positions you have applied for, it appears that no Merit Promotion Supervisory Evaluations were submitted regarding you within 30 calendar days from your initial interview with an EEO Counselor. Since these evaluations play a part in the merit promotion selection process and in an effort to afford you maximum opportunity to explore your allegation of discrimination, your issue B will be accepted on the basis that it relates to your contention that racial discrimination was the reason for your non-selection on Merit Promotion Cases #303-GF-79 and #410-GF-79. Your issue B will be accepted as follows:

As a result of discrimination on the basis of your race (Black) Mr. Reich and Mr. Millspaugh gave you low ratings on Merit Promotion Supervisory Evaluations regarding Merit Promotion Cases #303-GF-79 and #404-GF-79.

In issue C you allege you received an unfair performance evaluation because of your race. After reviewing your Official Personnel Folder, it appears that this evaluation was conducted in March 1979. This issue clearly does not meet the 30 calendar day time limit referred to earlier in this letter, and therefore cannot be accepted.

Discrimination complaint guidelines state that allegations of discrimination must be specific and that vague or general allegations should be referred back to the complainant so that additional information may be provided to clarify

0030
12713
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22 JAN 1980

such allegations. Issues D (unfair position description and classification) and E (phychological harassment) both clearly fall into the category of vague or general allegations. Therefore, they cannot be accepted for processing at this time. However, you will have 14 calendar days from receipt of this letter to provide in writing to me additional information regarding these vague or general allegations. This additional information should be specific enough to enable a clear understanding of the actions you perceive to be discriminatory.

My decision to reject or otherwise not accept the allegations identified as items C, D, and E above constitutes the final Department of the Navy decision on those allegations. You may appeal to the Director, Office of Appeals and Review, Equal Employment Opportunity Commission (EEOC), 2401 E. Street, N.W., Washington, D. C. 20506, within 15 calendar days of the receipt of this decision. The appeal and any representations in support thereof must be submitted in duplicate. In lieu of an appeal to the Commission, you may file a civil action in an appropriate U.S. District Court within 30 days of receipt of this decision. If you elect to appeal to the Commission's Office of Appeals and Review, you may file a civil action in a U.S. District Court within 30 days of receipt of the Commission's final decision. A civil action may also be filed any time after 180 days of the date of initial appeal to the Commission if a final decision has not been rendered.

If you wish technical advice or assistance concerning this matter, you may contact Mr. Charles Gartman of the EEO staff at 982-8939.

By copy of this letter, the Naval Civilian Personnel Command, Western Field Division is advised of the allegation which has been accepted for processing and is requested to assign an investigator.

Sincerely,

F. H. BAUGHMAN
Rear Admiral, U.S. Navy

Copy to:
NCPC-WFD (with case file)
Director, NCPC (with complaint)

731 Janetwood #11
Oxnard, California 93030
5 February 1980

F. H. Baughman
Rear Admiral, U.S. Navy
Commander
Pacific Missile Test Center
Code 0000
Point Mugu, California 93042

Subj: Clarification of vague or general allegations; submission of additional information

Ref: (a) Commander, Pacific Missile Test Center, Point Mugu, California ltr. 0030/12713 Ser: A-80; dtd. 22 January 1980.

(b) Ltr. Discrimination Complaint of Lawrence Earl Ray, dtd. 11 December 1979.

1. In regards to the request, the following statements are submitted to to clarify specifically the vague or general statements designated in paragraph II, sub-paragraph D and E of reference (a) resulting from statements submitted in reference (b).

a. Unfair Position Description and Classification, (Sub-paragraph D):

(1) Position is that of an Operating Accountant in the Tennant Accounting Section. For no apparent reason I was transferred to the Tennant Accounting Section.

(2) Position description is a complete downgrading of position held.

b. Psychological Harasshment, (Sub-paragraph E):

(1) Mr. Richard H. Rochon, Mr. Robert J. Savala, Mr. Harold D. Reich; by intent and/in case of negligence, have, by design, inflicted psychological harasshment upon my person with attempts to inflict psychological injury because of my race and skillful manuvered their acts, whereas there is no alterna- except to file an Equal Employment Opportunity Complaint.

5 February 1980

Subj: Clarification of vague or general allegations; submission of additional information

(2) Complaints are specifically filed against them for far-reaching conclusive and connecting acts of harassment stemming from a singular and independent psychological harassing base:

		--Reason--	
(a)	Mr. Richard H. Rochon --	Mental ability	(Performance & potential)
(b)	Mr. Robert J. Savala --	Mental attitude	(Ability to get along with others)
(c)	Mr. Harold D. Reich --	Aspiration	(Association)

MR. RICHARD H. ROCHON

After suggesting that I attend EEO classes or by the suggestion of Mrs. Billy Brown, Mr. Rochon informed me to attend and be a member of the Equal Employment Opportunity Committee. I did not prefer to become involved with the Equal Employment Opportunity Program. Not that I do not wish to be equally employed but I felt and still feel that the program has an inherent discourtesy to upper management and overlaps or acts as some unsubstantiated guardian angel to the Personnel Department.

Since, Mr. Rochon suggested that I be a member of the Equal Employment Opportunity Committee and was given a Job Order for which I was to charge off time spent in the Equal Employment Opportunity Committee I accepted.

After I had completed the year on the EEO Committee and was on a training schedule, when the training was completed I was permanently assigned from my previous position to the Review Group.

Sometime later co-worker Mr. John Lawrence was promoted to the grade of GS-11.

5 February 1980

Subj: Clarification of vague or general allegations; submission of additional information

MR. RICHARD H. ROCHON Cont'd

I asked for a promotion shortly after. Mr. Rochon informed me that I shouldn't ask for a promotion because someone else had one. He told me he wasn't promoting any one and "Dammit get another Job and stay out of his office. and he could give me an assignment that would tear me to pieces."

I was taken aback by this because Mr. Rochon had suggested that I become a member of the EEO Committee, I felt then that he would not be disheartening enough to discriminate against me because of my race.

I applied for a Job as an Administrative Officer, Mr. Rochon graded me on potential--for which he established his psychological basis to discriminate against me because of mental ability. His conclusive act of demeaning is Association.

MR. ROBERT J. SAVALA

The first encounter with Mr. Savala that would indicate he would discriminate against me because of mental attitude for which I believe he construed and attempted to build up a reservior of mental outbursts.

I was extended the invitation by Mr. Savala to join the Comptroller Bowling League. I did not join, since at that time I was suffering from an alledged intestinal disorder.

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Subj: Clarification of vague or general allegations; submission of additional information

MR. ROBERT J. SAVALA Cont'd

validation of funds. And further stated that if the Budgeting Division gave any discourse he would tell them a piece of his mind (in so many words).

I refused to initial the memorandum and received permission from Mr. Beard the Head, of the Accounting Division to review the contracts.

I thought no more of the matter of possible incoherent work-relationship with Mr. Savala until I applied for the Systems Accountant position. Mr. Savala rated me next to the highest score in knowledge and gave 2's or satisfactory on those Job Elements that had a clause or indication of interface or interpersonal behavior with persons or groups. I was told by the Examiner in the Personnel Department that the reason I was not scoring high enough on ranking panels was because of my Supervisory Appraisals.

I talked to Mr. Savala about it. He said he had graded me as a potential to a GS-12. I asked if he shouldn't have graded me as a GS-9.

I thought that by being in the same division that I would be able to substantiate my competence to Mr. Savala.

When I was a Supervisory Operating Accountant, there was an uproar in the section I supervised. Mr. Savala was then my supervisor. He had me moved as my being the cause of the uproar, (which I wasn't), stating that he wouldn't let anyone upset him.

I was able to accept this until while transferred back in the Review Group--Mr. Rochon and Mr. Savala conducted a wide scale harasshment of Accounting Division Personnel.

Subj: Clarification of vague or general allegations; submission of additional information

MR. ROBERT J. SAVALA Cont'd

They partioned off the Accounting Division. Broke up intergroup and group relationships. Requested intensive study of Accounting Division personnel and workload status. Then made the statement that Accounting Division personnel were advanced beyond their capabilities.

Mr. Savala made off the wall statements that the former Head, of the Accounting Division (recently deceased) did not do his job. "I have been living in Ventura County all my life. And an isolated statement the word, "Attitude."

Attempts we re made to put pressure on employees when morale was exceptionally low by virtue of their proving their incompetence and the overbearing threats of riffs and cut backs by the Department of Defense.

When I applied for the Administrative Officer position and did not get an evaluation except for potential, in a conference with Mr. Rochon about the Supervisory Appraisal given me Mr. Savala appeared with tears in his eyes.

I thought it feasible to file a discrimination complaint against Mr. Rochon and Mr. Savala.

I had no further interface with Mr. Savala until acceptance of the final disposition I applied for a job in the Public Works Department. Mr. Savala and Mr. Reich graded me all 2's.

I conferred with an EEO Counselor requesting transfer out of the Accounting Division. I then removed Mr. Savala's name from being inquired for a Supervisory Appraisals on SF 171's.

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MR. ROBERT J. SAVALA Cont'd

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He tended to place everything on a technical basis including emotions.

We got along fine, except there was no work assignments and when there were assignments he took them away from me. For example, the assignment about the contract review dispute I had with Mr. Savala. He came out and got the contracts from me and then I went in to see Mr. Beard for permission to review the contracts.

He would grant me leave (as a favor) but under extenuating circumstances. For instance, when he and Mr. Savala was out for lunch and came back with one or two drinks too many he told me to take off. I was caught off guard, but, he was watching my reactions.

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Job Training. He pretended to be very upset with the Administrative Officer of the Supply Department, a Negro Woman (Mrs. Mary Mason) about being granted the use of the Supply Conference Room.

Mr. Reich received a Job in the Budgeting Division and left the Accounting Division while I was on rotational training assignments within the Accounting Division.

I had no other interface with him until he returned as Head of the General Accounting Branch.

He was on the ranking panel for the job of Systems Accountant and he should have been contacted to send in a Supervisory Appraisal for the position of Administrative Officer.

After Mr. Reich returned to the Accounting Division as Head of the General Accounting Branch. My position was placed under the General Accounting Branch. Mr. Reich then refused to let the Quarterly Review Report be submitted to the Head of the Accounting Division. After that he refused to approve it to have it typed. Another lady (Mrs. Maria Csanada) was given my job.

Then, Mr. Reich talked to the Head, of the Accounting Division and requested that I be allowed to train in the Budgeting Division. This was after I had talked to Mr. Otis Shepherd an EEO Counselor and Mr. E. L. Williams (Deputy Comptroller) of the possibility of being transferred out of the Accounting Division. Since, again I was given 2's on a Supervisory Appraisal form for a position I had applied for in the Public Works Department.

Subj: Clarification of vague or general allegations; submission of additional information

MR. HAROLD D. REICH Cont'd

I was employed in the Budget Division for one year and later returned to the Accounting Division unable to be placed in the Budgeting Division.

I returned to the Accounting Division and found that my position description had been abolished and a new one was written.

After some time working in the Accounting Division I was notified by Mr. Reich that I was transferred to the Tennant Accounting Section, (NTE beyond 31 December 1978.) I later found out that I had a permanent transfer.

I applied on many jobs at this activity and other activities. Mr. Reich showed me one Supervisory Appraisal form for the position of an Auditor at the Great Lakes Naval Base in Great Lakes, Illinois, on it was all 4's and one 3. He commented that he gave me those marks because, "They wanted to get rid of me."

I was enthusiastic about leaving because I wanted to get out of the Accounting Division.

I had no concrete reason to believe that Mr. Reich had any reason to want to get rid of me since he had submitted my name to be a Keyman and a Keyperson for the CFC. Of course I found it perculiar that he contributed nothing to the campaign.

I had to get the approval of the Head of the Accounting Division to work overtime in order to get my job under under control.

The last act of harasshment was the Performance Evaluation Appraisals submitted by Mr. Reich that had far reaching consequences, such as:

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Subj: Clarification of vague or general allegations; submission of additional information

MR. HAROLD D. REICH Cont'd

a. Abusing the system by taking unfair advantage of time lags by taking administrative actions that vents emotional reactions with far-reaching consequences.

b. Performance Evaluation is demeaning.

(1) Resents it, but finds its objection (to put in words) is the same basically in the negative as an outstanding would be positively, i.e. to positively counteract the psychological impact.

(2) Evaluated at an aspirational level and not for ability, i.e. my ability or inability to get along with others. Stressed as being the only difficult person in the Accounting Division.

(3) Last evaluation form was filled out in pencil by Mr. Lewis Lawson. First there was a note telling me to fill it out myself in pencil and he (Mr. Lawson) would write it out in ink. I refused and told Mr. Lawson so. Apparently Mr. Lawson turned it over to Mr. Reich and Mr. Reich filled it out.

Mr. Reich's conclusive discriminatory action is that of mental ability.

2. The aforementioned statements are submitted to clarify that by my Position Description being unfair to the placement I should merit by my professional status and the Performance Evaluation was done and the other actions as stated to have far-reaching consequences over an extended period of time to psychologically harass and to do harm because of my race, by skillful manuvers within the system to inflict psychological damage through interpersonal reactions, timeliness of complaints and attempts to insert a psychological basis through deceitfully distorting efforts and attempting to inflict psychological harm by channeling mental attitudes adversely, erecting blockades to aspiration and degenerating my mental ability.

Lawrence Earl Ray

Lawrence Earl Ray

731 Janetwood #11
Oxnard, California 93030
6 February 1980

Director
Office of Appeals and Review
Equal Employment Opportunity Commission
2401 E. Street, N. W.
Washington, D. C. 20506

Subj: Discrimination Complaint; appeal for acceptance of rejected portions

Ref: (a) Commander, Pacific Missile Test Center, Point Mugu, California, ltr. 0030/12713; Ser: A-80; dtd. 22 January 1980.

Encl: (1) Copy of Reference a, Commander, Pacific Missile Test Center, Point Mugu, California, ltr. 0030/12713; Ser: A-80; dtd. 22 January 1980.

(2) Copy of Ltr., Clarification of vague or general allegations; submission of additional information of Lawrence Earl Ray, dtd. 5 February 1980.

(3) Copy of Ltr., Discrimination Complaint of Lawrence Earl Ray, dtd. 11 December 1979.

(4) Copy of Ltr., Discrimination Complaint of Lawrence Earl Ray, dtd. 22 December 1974.

1. Reference (a) paragraph IV and VII rejected certain items as issues in a discrimination complaint the addressor submitted.

2. In view of the fact that the complainant I, Lawrence Earl Ray, did assert the identity of Mr. Richard H. Rochon and Mr. Robert J. Savala as discriminating officials to the Equal Employment Opportunity Counselor, Mr. Carl Nickens and was advised by Mr. Nickens that they could not be accepted.

3. In view of the fact that the actions of Mr. Richard H. Rochon and Mr. Robert J. Savala along with the Performance Evaluation Appraisal has long-range and far-reaching consequences, an appeal is hereby made for the acceptance of those items rejected.

4. Enclosures (1), (2), (3) and (4) are submitted to substantiate the affect and effect of their actions and impact.

Lawrence Earl Ray
Lawrence Earl Ray

731 Janetwood #11
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5 February 1980

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Lawrence Earl Ray

Lawrence Earl Ray

11 December 1979

From: Lawrence Earl Ray, Code 0231, Pacific Missile Test Center, Point Mugu, California 93042

To: Commander, Pacific Missile Test Center, Code 0000, Point Mugu, California 93042

Subj: Discrimination Complaint; submission of

Ref: (a) Conference with Mr. F. A. Meneely, Comptroller, Code 0200, Pacific Missile Test Center, Point Mugu, California 93042; December 4, 1979, 0800am.

(b) H. J. Broderick, EEO Investigator's Report, Regional Office Of Civilian Manpower Management, San Diego, California 93131; Ser 42/HJB:amt; 12713 dtd. 28 April 1975.

(c) Memorandum of Final Interview with EEO Counselor; dtd. 28 November 1979.

Encl: (1) Copy of memorandum to Equal Employment Opportunity Officer, dtd. 22 December 1974.

1. On 4 December 1979, in a conference as stated in reference a, the follow- requests were made to Mr. Meneely, Comptroller, Pacific Missile Test Center, as a means of informing and alleviation of grievances resulting from discrimination because of race (I am a Negro) and because of national origin (I was born and grew up in Shelby, Texas and not in Ventura County):

a. Promotion to the GS-12 level with competitive status for the next higher level.

b. Lump Sum Payment for the lapsed time promotion should have taken place up to the present time.

c. Compensation for Job Stress and Strain.

d. Compensation for the alleviation of stress and strain in the avoidance of complications at the GS-12 level.

e. Individual compensation from individuals responsible for compensatory stress and strain.

11 December 1979

Subj: Discrimination Complaint; submission of

2. The above requests were made in lieu of the fact that repeated consultation has been made that the type of harasshment as stated in reference b, be abated. It has continued in one of the most perilous forms of conflicting psychological damage to the complainant's mental ability, mental attitude and aspiration, by distortment of aspirational levels of association, abatement of internal aspirational goals and denials and distortment of achievements.

Enclosure (1) is a copy of the initial memorandum for the formal complaint in reference b.

3. I, Lawrence Earl Ray, the complainant, do accuse Mr. Richard H. Rochon, Mr. Robert J. Savala and Mr. Harold D. Reich of Codes 0230 for parallel and synonymous acts of discrimination and singular antonymous reprisals against my resistance to their conclusive acts.

I do accuse Mr. F. A. Meneely Code 0200 and Mr. O. W. Millspaugh Code 0231 for singular synonymous and antonymous martyring of their better judgment. These accusations against Mr. Meneely and Mr. Millspaugh are at this point in the complainant's judgment presented for clarification and not for retribution.

4. In reference to, reference c, I Lawrence Earl Ray do formally file a discrimination complaint against the aforenamed and others who maybe revealed, because of acts of harasshment with attempts to inflict psychological injury because of my race and national origin on all jobs applied for from COM-130-10-2, August, 1973 through 410-GF-79, July, 1979; and request for alleviation through requests as stated in paragraph (1), for reasons of:

a. Refusal of Promotion

b. Unfair Performance Evaluation and Ratings 11ND-PMTC-12430/5 (11-78)

c. Unfair Merit Promotion Appraisal/Reference 11ND-PMTC-12335/2 (REV 12-76)

d. Unfair Position Description and Classification

e. Psychological harasshment

Lawrence Earl Ray

Lawrence Earl Ray
Code 0231
Ext. 8551/8552

22 December 1974

From: Lawrence Earl Ray, Code 137.1, Pacific Missile Range, Point Mugu, California 93042

To: Equal Employment Opportunity Officer, Vice Commander, Pacific Missile Range, Code 01, Point Mugu, California 93042

Subj: Complaint of Discrimination; submission of

Ref: (a) Memo from: EEO Counselor, Phillip R. Villarreal; dtd 19 Dec. 1974, para. 2.

Encls: (1) Copy of reference (a)

1. In accordance with reference (a) I LAWRENCE EARL RAY do hereby file formal complaint of racial discrimination allegedly committed against me by RICHARD H. ROCHON and ROBERT J. SAVALA, respectively the Head and Assistant Head of the Accounting Division Code 137.0 and any other accomplices thereto.

2. Grievances are filed because of:

a) Undue harrashment, role ambiguity and stress induced by the Head and Assistant Head of the Accounting Division.

b) Unfair work appraisals and unfair performance appraisals on job applications COM-130-10-2 of August, 1973 and 3100-84-4 of 9 September 1974.

c) Acts of de-motivation by both the Head and Assistant Head of the Accounting Division.

(1) Telling me to find another job and stay out of his office (Head, Accounting Division)

(2) Type of work that I am doing should be done by a person of a lower GS grade level.

(3) Being both the causes of my greivances and then directing as to how to get redress for those grievances.

(4) At a time when morale was and still is low in the Accounting Division--stating that Accounting Division personnel were promoted beyond their capabilities and then excluding

ENCLOSURE (1) Exhibit 3

2 pcombor, 1974

Subj: Complaint of Discrimination; submission of

me from all meetings with fellow co-workers of my status and peer--later accusing me of not communicating interpersonally with co-workers where normally such conditions would result in justifiable subterfuge to instigate acts of sabotage and treason to the confidence of my superiors.

(5) Threats of giving me assignments that would prove my incapabilities and never giving these assignments.

(6) Keeping assignments written and completed out of file.

(7) Assignments coming from at least three different persons.

(8) Unfair promotion procedures and denial of promotion on grounds of future assignments.

3. Request is hereby made, by filing of grievances, for investigation of discriminatory acts because of my race, the two jobs applied for mentioned in paragraph (2), CCK-130-10-2 of August, 1973 and 3100-84-4 of 9 September 1974 and for denial of promotion within the present position held in the Accounting Division Code 137.1.

Lawrence Earl Ray

LAWRENCE EARL RAY
Code 137.1, Review Group
EXT. 7602

ENCLOSURE (1)

DEPARTMENT OF THE NAVY
COMMANDER
PACIFIC MISSILE TEST CENTER
POINT MUGU, CALIFORNIA 93042

IN REPLY REFER TO:
0030
12713
Ser A-294
28 FEB 1980

Mr. Lawrence Earl Ray
731 Janetwood #11
Oxnard, CA 93030

Dear Mr. Ray:

In your Discrimination Complaint of 14 December 1979 you listed five concerns identified as issues A, B, C, D, and E. My letter to you of 22 January 1980 accepted for processing issues A and B, rejected issue C, and asked you to provide more specific information regarding issues D and E within 14 calendar days from receipt of my letter.

I have received your letter of 5 February 1980 and have reviewed the information submitted for purposes of clarifying issues D and E. While your letter contains a wealth of background information, it is still unclear to me specifically what issues D and E really mean and when they happened.

Technically, issues D and E could be rejected at this point as vague or general allegations. However, in keeping with my good faith efforts to support Equal Employment Opportunity (EEO), I will provide you an additional opportunity to clarify issues D and E.

With respect to issue D please provide the following information:

1. Date (month and year) of transfer to Tenant Accounting Section.

2. Date (month and year) assigned to current position.

3. Date (month and year) of last Position Description review with supervisor.

In regards to issue E please provide the following data:

1. Date (month and year) and specific action of Mr. Rochon which you consider to be psychological harassment.

2. Date (month and year) and specific action of Mr. Savala which you consider to be psychological harassment.

3. Date (month and year) and specific action of Mr. Reich which you consider to be psychological harassment.

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12713
Ser A-294

28 FEB 1980

I must receive your response to these questions within seven calendar days from receipt of this letter.

If you wish technical advice or assistance regarding this matter, you may contact Mr. Charles Gartman of my EEO staff at 982-8939.

Sincerely,

Fred H. Baughman

F. H. BAUGHMAN
Rear Admiral, U.S. Navy

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
WASHINGTON, D.C. 20506

MAR 4 1980

Docket No. 01.80.0734

MR. LAWRENCE EARL RAY
731 JANETWOOD #11
OXNARD, CA 93030

Re: Your discrimination complaint appeal
Agency: NAVY
Final Decision Date:

Dear MR. RAY

This will acknowledge receipt of your discrimination complaint appeal DATED 02.6.80 . Your appeal has been assigned the above docket number and this number should be reflected on all correspondence in the future.

We have requested your discrimination complaint file from the agency and at the same time furnished the agency a copy of your appeal for whatever comment it may care to make. After our receipt of the file and agency comment, if any, we will advise you further.

Sincerely yours,

Nestor Cruz
Director
Office of Review and Appeals

731 Janetwood #11
Oxnard, California 93030
11 March 1980

F. H. Baughman,
Rear Admiral, U. S. Navy
Commander
Pacific Missile Test Center
Code 0000
Point Mugu, California 93042

Subj: Clarification of Issues D and E; submission of additional information.

Ref: (a) Commander, Pacific Missile Test Center, Point Mugu, California; ltr. 0030/12713 Ser: A-294; dtd. 28 February 1980

(b) Ltr. Clarification of vague or general allegations; submission of additional information of Lawrence Earl Ray, dtd. 5 February 1980.

(c) Ltr. Discrimination Complaint of Lawrence Earl Ray, dtd. 11 December 1979.

Encl: (1) List, by Month and Year of specific actions of Mr. Richard H. Rochon considered to be psychological harasshment.

(2) List, Month and Year of specific actions of Mr. Robert J. Savala considered to be psychological harasshment.

(3) List, by Month and Year of specific actions of Mr. Harold D. Reich considered to be psychological harasshment.

1. In response to reference (a), reference (b) was submitted to clarify issues stated as vague or general allegations in the filing of a discrimination complaint submitted by reference (c).

2. In view of the fact or the assumption that there is a close similarity in the grievance procedures (for adverse actions) of the Equal Employment Opportunity Commission policy and the grievance procedures of the Federal Labor-Management Relations Program or policy procedures

11 March 1980

Subj: Clarification of Issues D and E; submission of additional information.

for which they may connect of overlap; and inview of the fact of the congruent, connecting and overlapping acts of Mr. Richard H. Rochon, Mr. Robert J. Savala and Mr. Harold D. Reich were committed by design, and in case of negligence through their intent to psychologically harassh me because of my race through singular (synonymous and antonymous) efforts to affect and effect my person by the emotional far-reaching and long-range consequences of their actions and impact of their actions; the following information, as requested, is respectively submitted.

a. In regards to issue D the following information is submitted:

1. I was transferred to the Tennant Accounting Section September, 1977.

2. I was assigned to my current position in June, 1978.

3. To my knowledge, I have never had a position description review.

b. In regards to issue E, enclosures (1), (2) and (3) are submitted.

Sincerely,

Lawrence Earl Ray

Lawrence Earl Ray

Specific discriminating actions of Mr. Richard H. Rochon.

MENTAL ABILITY (Performance and Potential)

Sept. 1973 — Informed me to attend and be a member of the Equal Employment Opportunity Committe.

Jan. 1974 — Refused to promote me on the grounds that I was asking because someone else had a promotion.

Jan. 1974 — Issued a policy of non-promotion.

Jan. 1974 — Informed me to stay out of his office and he could give me an a-signment to tear me to pieces. His exact words, "Dammit, get another Job."

Under his administration as Head of the Accounting Division. (My position being that of a Systems Accountant.)

a. Threats by the Department of Defense to cut back employees-- that could result in loss of jobs.

b. The previous Head of the Accounting Division retired without warning with the rumor that there were moral charges that caused it. Two months later he died.

Mar. 1974 through Dec. 1974

c. Previous to his retirement the previous Assistant Head left for another job.

d. Mr. Rochon after asking for copies of all Accounting Division employees' SF-171's, announced that most or all of the Accounting Division employees were advanced beyond their capabilities and proceeded to hire at the GS-2 and GS-3 level.

e. Issued a policy of no promotions.

f. Designed the Accounting Division externally where it does not aid to maintaining solidarity and cohesion within the Accounting Division, by partioning off the Accounting Division, whereas, attempts appear to have been made by management to break up informal groups and to put pressure on employees at a time when morale was exceptionally low, whereas, individuals would feel receptive and justified to instigate acts of sabotage, espionage and mutiny to repel managerial policies.

g. Employees were angry and some told this too Mr. Rochon.

h. I was receiving assignments from at least three different people

Specific discriminating actions of Mr. Richard H. Rochon cont'd.

Mar. 1974 through Dec. 1974	i. Mr. Rochon began to keep his door closed most of the time shutting out communication and interpersonal relationships with subordinates.
	j. Mr. Rochon played musical chairs with Mr. Savala's office. From the way it was played one couldn't tell who was who accept by announcement.
Mar. 1974 through Dec. 1974	At a time when morale was low in the Accounting Division-- stating that Accounting Division personnel were promoted beyond their capabilities and then excluding me from all meetings with fellow co-workers of my status and peer--later accusing me of not communicating interpersonally with co-workers where normally such conditions would result in justifiable subterfuge to instigate acts of sabotage and treason to the confidence of my superiors.
	Threatened to give me assignments that would prove my incapabilities and never giving those assignments.
	All directives, instructions and changes in policies were disseminated into my office.
Sept. 1974	Was graded only on potentials for the position of Administrative Officer #3100-84-4 of September, 1974.

Specific discriminating actions of Mr. Robert J. Savala.

MENTAL ATTITUDE (Ability to get along with others)

I was extended the invitation by Mr. Savala to join the Comptroller Bowling League. I did not join, at the time I was suffering from an allegded intestinal disorder.

Sept. 1970 — There was a request from the Budgeting Division to review some contracts for the possible recapture of funds. Mr. Savala told me to initial the memorandum and he would send it back to the Budgeting Division as proof of validation of funds. And further stated that if the Budgeting Division gave any discourse he would tell them a piece of his mind (in so many words).

I refused to initial the memorandum and received permission from Mr. Bbard the Head, of the Accounting Division to review the contracts.

I applied for the Systems Accountant Position, COM-130-10-2 August, 1973. Mr. S.vala rated me next to the highest score in knowledge and gave 2's or satisfactory on those

Aug. 1973 — Job Elements that had a clause or indication of interface or interpersonal behavior with persons or groups. I was told by the Examiner in the Personnel Department that the reason I was not scoring high enough on ranking panels was because of my Supervisory Appraisals.

Dec. 1974 — I talked to Mr. Savala about it. He said he had graded me as a potential to a GS-12. I asked if he shouldn't have graded me as a GS-9. I thought that by being in the same division that I would be able to substantiate my competence to Mr. Savala.

Mar. 1973 — When I was a Supervisiory Operating Accountant, there was an uproar in the section I supervised. Mr. Savala was then my supervisor. He had me moved as my being the cause of the uproar, (which I wasn't), stating that, he wouldn't let anyone upset him.

Mar. 1974 — I was able to accept this until while transferred back into the Review Group, there was wide scale harasshment of Accounting Division personnel.

After the Head of the Accounting Division with Mr. Savala as his assistant requested copies of all Accounting Division employees' SF-171's, announced that most or all of the

Mar. 1974 through June 1974 — Accounting Division employees were advanced beyond their capabilities and proceeded to hire at the GS-2 and GS-3 level. Mr. Savala told me personally that the work I was doing should be done by a GS-2 or GS-3.

Specific discriminating actions of Mr. Robert J. Savala cont'd.

Mar. 1974	Mr. Savala stated that the former Head of the Accounting Division, Mr. Beard (recently deceased) did not do his job.
Mar. 1974 through June 1974	Mr. Savala played musical chairs with Mr. Rochon's office. It was confusing. One did not know who was who except by announcement.
Mar. 1974	Mr. Savala requested a feasibility study to be conducted by me for the possible consolidation of the RMS and NIF Accounting Job Order Desk functions. While conducting this study, Mr. Savala made the statement, "I have been living in Ventura County all my life." and then he made an isolated statement "Attitude!" later on.
Dec. 1974	Mr. Savala began to keep his door closed most of the time shutting out communication and interpersonal relationships.
Apr. 1974	I was denied promotion by Mr. Savala on the grounds of future assignments.
Dec. 1974	When I applied for the Administrative Officer position and did not get an evaluation except for potential, in a conference with Mr. Rochon about the Supervisory Appraisal given me, Mr. Savala appeared in the doorway with tears in his eyes.
Nov. 1975	Upon acceptance of the Final Disposition on the EEO complaint, Mr. Savala graded me all 2's on the job applied for in the Public Works Department. I conferred with an EEO counselor requesting transfer out of the Accounting Division. I then removed Mr. Savala's name from being inquired for a Supervisory Appraisal on SF-171's submitted by me.
Mar. 1978	Mr. Savala always spoke to me after that until about a year ago in the conference in the Tenant Accounting Section with his rear-end he pushed my <u>In-Basket</u> back on my desk. From then on it has been a cool off-hand approach.

Specific discriminating actions of Mr. Harold D. Reich

ASPIRATION (association)

The first encounter with Mr. Reich, I had no fixed impression as to what type of person he was although I thought at the time we had a personality clash and I thought that I was to blame.

He tended to place everything on a technical basis including emotions. There are about four emotions that Mr. Reich has shown: Smiles, Tears, Frustrated Anger and Anger.

a. His <u>smiles</u> are not associated with anything or anybody. It would appear that they are reactionary in the line of duty. (i. e. when he gave
Dec. 1977 the evaluation for the position in Great Lakes, Illinois, #77-209), he was smiling when he told me he gave me a high ranking because they were trying to get rid of me.

1976, intermittently, continuous and frequent.

b. His <u>tears</u> are associated with being bothered, that is, being forced to grantoor perform something that is beyond the call of duty.

c. <u>Frustrated Anger</u>, was shown toward the Administrative Officer of the Supply Department, a Negro woman.
Sept. 1970 Mrs. Mary Mason about being granted the use of the Supply conference Room.

Sept. 1973 d. <u>Anger</u>, was shown at Mr. H. Grady Beard's memorial service.

He would grant me leave (as a favor) but under extenuating circumstances. For instances, when he and Mr. Savala were
Oct. 1970 out for lunch and came back with one or two drinks too many he told me to take off. I was caught off guard, but, noticed and felt strange that he was watching my reactions.

Aug. 1973 He was on the ranking panel for the job as Systems Accountant and he should have been contacted to send in a Supervisory
Sept. 1974 Appraisal for the position of Administrative Officer.

After Mr. Reich returned to the Accounting Division as Head of the General Accounting Branch. My position was
July 1975 placed under the General Accounting Branch. Mr. Reich then refused to let the Quarterly Review Report be submitted to the Head of the Accounting Division, Mr. Richard H. Rochon. After that he refused to have it typed. Another lady (Mrs. Maria Csanadi) was given my job.

Dec. 1975	I was graded 2's on a Supervisory Appraisal form for a position I had applied for in the Public Works Department as a Final Disposition on the EEO complaint I had filed against Mr. Rochon and Mr. Savala.
Mar. 1976	Mr. Reich talked to the Head of the Accounting Division and requested that I be allowed to train in the Budgeting Division. This occured after I had talked to Mr. E. L. Williams (Deputy Comptroller) of the possibility of being transferred out of the Accounting Division.
Sept. 1977	After sometime working in the Accounting Division I was notified by Mr. Reich that I was transferred to the Tenant Accounting Section.
Skpt. 1975	He submitted my name to be a Keyman and a Keyperson for the Combined Federal Campaign without inquiring me. After my soliciting to him for contribution he refused and stated that "I wouldn't be able to get that out of him".
Between Mar. 1977 and Sept. 1978	I was invited by Mr. Reich to attend his church. He said he would pick me up. I refused. He then asked me all the Television programs I watched. I told him. He also said he felt all theatrical works and all art should be sanctioned by the Church.
Dec. 1979	Had to get the approval of the Head of the Accounting Division to work overtime to get my Job under control.
	Performance Evaluation is demeaning:
	a. Evaluation form was filled out in pencil by Mr. Lewis Lawson. First there was a note telling me to fill it out myself in pencil and he (Mr. Lawson) would write it out in ink. I refused and told Mr. Lawson so. Apparently, Mr. Lawson turned it over to Mr. Reich and Mr. Reich filled it out.
Mar. 1978	b. Evaluated at an aspirational level and not for ability, i.e. my ability to get along with others.
	c. Resents the Performance Evaluation, but finds its objection (to put in words) is the same basically in the negative as an outstanding would be positively, i.e. to positively counteract the psychological impact.

DEPARTMENT OF THE NAVY
COMMANDER
PACIFIC MISSILE TEST CENTER
POINT MUGU, CALIFORNIA 93042

IN REPLY REFER TO:
0000
12713
Ser A 389

20 MAR 1980

Mr. Lawrence Earl Ray
731 Janetwood #11
Oxnard, CA 93030

Dear Mr. Ray:

In your Discrimination Complaint of 14 December 1979, you listed five concerns identified as issues A, B, C, D, and E. My letter to you of 22 January 1980 accepted for processing issues A and B, rejected issue C and asked you to provide more specific information regarding issues D and E. Your letter to me of 5 February 1980, while providing background information, still left room for further clarification regarding issues D and E. My letter to you of 28 February again asked you to further clarify issues D and E specifically identifing time frames for the alleged discriminatory actions.

The purpose of this letter is to inform you I have received your letter of 11 March 1980 and to inform you that after carefully reviewing the information submitted, I have decided to reject issues D and E on the basis of timeliness.

As stated to you in my letter of 22 January 1980 discrimination complaint guidelines state that in order for an allegation of discrimination to be accepted, an employee must seek counseling on the matter within 30 calendar days from the date of the alleged discriminatory act, or if a personnel action, within 30 calendar days from the effective date of the action.

Issues D and E clearly fall considerably outside of the afore described time limits.

My decision to reject allegations identified as items D and E constitutes the final Department of the Navy decision on those allegations. You may appeal to the Director, Office of Appeals and Review, Equal Employment Opportunity Commission (EEOC), 2401 E Street, N.W., Washington, D. C. 20506, within 15 calendar days of the receipt of this decision. The appeal and any representations in support thereof must be submitted in duplicate. In lieu of an appeal to the Commission, you may file a civil action in an appropriate U.S. District Court within 30 days of receipt of this decision. If you elect to appeal to the Commission's Office of Appeals and Review, you may file a civil action in a U.S. District Court within 30 days of receipt of the Commission's final decision. A civil action may also be filed any time after 180 days of the date of initial appeal to the Commission if a final decision has not been rendered.

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20 MAR 1980

If you wish technical advice or assistance concerning this matter, you may contact Mr. Charles Gartman of the EEO staff at 982-8939.

Sincerely,

J. M. HALLMAN
Captain, U.S. Navy
Commander, Pacific Missile Test Center
Acting

Copy to:
NCPC-WFD

731 Janetwood #11
Oxnard, California 93030
3 April 1980

Director
Office of Appeals and Review
Equal Employment Opportunity Commission
2401 E. Street, N. W.
Washington, D. C. 20506

Subj: Discrimination Complaint; appeal for acceptance of rejected portions (additional)

Ref: (a) Commander, Pacific Missile Test Center, Point Mugu, California ltr.; 0000/12713; Ser: A-389; dtd. 20 March 1980.

(b) Ltr.; Discrimination Complaint; appeal for acceptance of rejected portions of Lawrence Earl Ray; dtd. 6 February 1980.

(c) Ltr., Acknowledgement of receipt; Director, Office of Review and Appeals, Equal Employment Opportunity Commission; Washington, D. C.; Docket No. 01 80 0734; dtd. 4 March 1980.

(d) Ltr.; Discrimination Complaint of Lawrence Earl Ray; dtd. 11 December 1979.

(e) Ltr.; Discrimination Complaint of Lawrence Earl Ray; dtd. 22 December 1974.

Encl: (1) Chronological Supportive Data

(2) Chronological List of Enclosure (1)

1. Reference (a) paragraph II rejected after clarification and reclarification, items noted as issues D and E on the basis of timeliness on reference (b) a discrimination complaint filed by the addressor.

Reference (c) is a previous appeal on certain items also rejected on that complaint for which reference (d) acknowledges receipt of. Reference (e) is the initial discrimination complaint filed.

An appeal is hereby made for the acceptance of those rejected portions for the reason that these acts were committed in a nature exclusive of civility and humanity to antagonize my person because of my race in a confrontation of myself on a superior and inferior basis for which the following explanations are submitted.

3 April 1980

Subj: Discrimination Complaint; appeal for acceptance of rejected portions (additional)

a. Mr. Richard H. Rochon, Mr. Robert J. Savala and Mr. Harold D. Reich committed their acts of psychological harasshment through subtle, extreme, exclusive and inclusive acts of ostracism by affecting and effecting my person through interlinking, interwoven, overlapping and singular congruent acts and through using previous affects to become effects and effectuating effects into affects.

b. The element of time was used not as a means of functioning but dysfunctional, i. e., to place actions in a managerial perspective and not in an administrative perspective. The technical constraints (of the time element) has nothing to do with the emotional outlet of their actions and impact nor does it aid fair play, consideration of honor and respect and the alleviation of negligence.

c. Mr. Richard H. Rochon, Mr. Robert J. Savala and Mr. Harold D. Reich through conclusive acts similar to a transfiguration abused the tools of management and diffused and transfused their acts whereas, the technical aspects became emotional and the emotional aspects become technicalities.

d. Discrimination Complaint was filed on 22 December 1974. The complaint was filed on the grounds of psychological harasshment and job discrimination by:

(1) Filing of grievances.

(2) Filing a request for investigation because of my race.

(3) Denial of promotion.

e. Discrimination and psychological harasshment continued after accepting final disposition on case filed 22 December 1974.

(1) Received only (2's) on appraisals.

(2) Conferenced with Mr. Eldon Williams, Deputy Comptroller, said he would try to do something about it, stating that the Accounting Division was a sweat shop.

(3) Conferred with EEO Counselor; did not file a formal complaint.

(4) Was not able to be transferred out of the accounting Division.

(5) Mr. Flyod Meneely, Comptroller, said he had heard about my grievances and he would be doing everything possible to help me.

3 April 1980

Subj: Discrimination Complaint; appeal for acceptance of rejected portions (additional)

f. Discussed Job Description, Supervisory Appraisals, Performance Evaluation Appraisals with Mr. Mayo Hogue, Employee Relations Division of the Personnel Department, Pacific Missile Test Center, after being denied placement.

(1) Sought proper avenue to file complaint.

(2) Split between Job Classification and Position Description being unfair labor practices and psychological harasshment because of my race. They are congruent, connect and overlap.

2. Enclosure (1) is submitted as supportive data and Enclosure (2) is the chronological sequence of the supportive data.

Lawrence Earl Ray

REPORT OF INVESTIGATION

EQUAL EMPLOYMENT OPPORTUNITY

COMPLAINT OF

LAWRENCE E. RAY

I. DESCRIPTION OF COMPLAINT:

A. Title and grade of Complainant's position:
Operating Accountant, GS-9

B. Name and location of agency and unit involved in complaint:
Pacific Missile Test Center, Point Mugu, California

C. Nature of action, decision or condition giving rise to complaint:
Non-selection for the position of Budget Analyst (2 occasions)

D. Date of alleged discrimination:
15 August 1979 and 12 September 1979

E. Kind of discrimination alleged:
Race (Black)

F. Identity of alleged discriminating official:
Floyd Meneely, Orville W. Millspaugh, Harold Reich, Richard Rochon and Robert J. Savala

II. DESCRIPTION OF INVESTIGATION:

A. Identity of investigator:
James A. Anderson, Personnel Management Specialist
Western Field Division
880 Front Street, Suite 5-S-29, San Diego, California 92188

B. Date case received by investigator:
30 January 1980

C. Date report of investigation submitted to Equal Employment Opportunity Officer:

23 June 1980

D. Place(s) of investigation:
Point Mugu, California and Ventura, California

E. Dates of investigation:
30 January 1980 to 5 April 1980 (intermitently)

III. ISSUE(S) OF COMPLAINT:

That because of his race (Black) the Complainant was not selected for either of two vacant positions of Budget Analyst advertised under Vacancy Announcement Nos. 303-79 and 410-79.

IV. DESCRIPTION OF EXHIBITS:

1. EEO Counselor's Report
2. Acceptance of EEO Complaint and identification of issues, Letter dated 22 January 1980
3. Assignment of Investigator, Letter dated 13 January 1980
4. Rejection of Issues in Complaint, Letter dated 20 March 1980
5. Affidavit of Lawrence E. Ray, Operating Accountant, GS-9, (Complainant - Black)
6. Affidavit of Floyd Meneely, Retired, (Alleged Discriminatory Official - non-Black)
7. Affidavit of Richard Rochon, Resources Officer, GS-13, (Alleged Discriminatory Official - non-Black)
8. Affidavit of Victor Reinhold, Head, NIF A-11 Budget Branch, GS-13, (Alleged Discriminatory Official - non-Black)
9. Affidavit of Harold D. Reich, Systems Accountant, GS-12, (Alleged Discriminatory Official - non-Black)
10. Affidavit of Orville W. Millspaugh, Head, General Ledger Billing Section, GS-11, (Alleged Discriminatory Official - non-Black)
11. Affidavit of Robert Savala, Supervisor, Cost Accounting Branch, GS-12, (Alleged Discriminatory Official - non-Black)
12. Affidavit of Glenn Grimm, Acting Comptroller, GS-14, (non-Black)
13. Vacancy Announcement No. 303-GF-79 for position of Budget Analyst, GS-560-7/9/11
14. Application, Supplemental and Supervisory Appraisal of selectee for above position
15. Application and Supplemental of Complainant for above position
16. Supervisory Appraisal of Complainant for above position
17. Ratings of the selectee
18. Ratings of the Complainant
19. Certificate of Highly Qualified Candidates at the GS-9 and GS-11 level, dated August 15, 1979
20. Position Description of Budget Analyst position at the GS-7, 9 and 11 levels
21. Vacancy Announcement No. 410-GF-79 for the position of Budget Analyst, GS-560-9/11
22. Application, Supplemental and Supervisory Appraisal of selectee for above position
23. Supplemental form submitted by Complainant for above position (the application for this position was identical to the one submitted under Vacancy Announcement No. 303-79 and is contained in Exhibit 15 of this report)
24. Supervisory Appraisal of Complainant for above position
25. Ratings of the selectee
26. Ratings of the Complainant
27. Certificate of Highly Qualified Candidates at the GS-9 level, dated September 12, 1979
28. Position Description of Budget Analyst position at the GS-9 and 11 levels
29. Performance Evaluations of Complainant from 1 April 1976 to 31 March 1979
30. EEO statistics for Oxnard-Simi Valley-Ventura, CA, PMTC and the Comptroller's office.
31. Accessions and promotions in the Comptroller's office
32. EEO goals for GS-560 positions
33. EEO Award received by Floyd A. Meneely 19 October 1979

V. BACKGROUND:

Mr. Lawrence Earl Ray (hereinafter referred to as the Complainant) applied for two vacant positions of Budget Analyst and was not selected for either position. He

felt that he was better qualified than either of the applicants selected and filed a discrimination complaint alleging his race (Black) was a consideration in his non-selection. The Complainant also felt that his former supervisors, who completed supervisory evaluations on him, were discriminatory in the way they evaluated his performance. He considered that the supervisory evaluations prepared by the supervisors were unfair and that his race was a consideration in the preparation of the evaluations. The Complainant further felt that two of his former supervisors which supervised him from 1970 to approximately 1973 had adversely influenced his more recent supervisors, and that this also had an impact in his non-selection for the two vacant Budget Analyst positions.

VI. ANALYSIS AND FINDINGS:

A. Allegation:

The Complainant stated, "I have applied for approximately 10 to 15 positions in the Comptroller's Department but have never been selected. I was found to be qualified for all of these positions and highly qualified for two of them. These latter two positions were advertised under Vacancy Announcement Nos. 303-GF-79 and 410-GF-79. I feel I was not selected for the two Budget Analyst positions because of my race - Black. I feel it was Floyd Meneely who discriminated against me in not selecting me for either of the positions."

1. Arguments in support of Complainant's position:

a. The Complainant further stated, "I feel that Messrs. Orville W. Millspaugh and Harold Reich also discriminated against me. . .Both of these men prepared supervisory evaluations on me in conjunction with my application for the job of Budget Analyst. Mr. Millspaugh as my present supervisor submitted one and Mr. Reich, as my former supervisor, submitted one. I feel the supervisory evaluations prepared by these men were unfair in that they considered my race (Black) when they prepared them. Mr. Millspaugh failed to complete the form which makes it useless. . .Mr. Reich left several factors blank and graded me lower than I deserved. . .

Further I feel Mr. Richard H. Rochon and Mr. Robert J. Savala discriminated against me. . .I think both of these men by their past actions, adversely influenced Messrs. Millspaugh and Meneely. This resulting in my non-selection for the two vacant Budget Analyst positions."

b. There was an EEO goal for a Black Employee in a GS-560-09 position.

2. Arguments in rebuttal to the Complainant's position:

a. The selecting official, Mr. Floyd Meneely, stated, "I know that Larry has alleged that I considered his race when I did not select him for either of two vacant positions of Budget Analyst. . .I feel that a certain amount of background is necessary to provide the environment in which Larry's non-selection occurred.

Shortly after I became Comptroller, Larry contacted me and told me of his previous EEO complaint and alleged promises made to him by the former Comptroller. He was in an accounting position at the time and his work was barely satisfactory. I

had received phone calls from NAVAIR regarding delinquent accounts that were assigned to him. Larry wanted to be a Budget Analyst and vocalized his desires to me. . .Generally, an Accountant can move with ease into a Budget Analyst position. . .I contacted the Commander at Aircraft Maintenance and he agreed to Larry's working in that position (of a Budget Analyst). After a month had elapsed the Commander called me and asked me to take Larry out of the position. The Commander stated he had bent over backwards to accomodate Larry but that Larry had caused tension and problems and he wanted him out of the area. I then moved Larry into the main Budget shop. . .I began to review Larry's work and attempt to communicate with him. Larry was very non-communicative. . .

After Larry had been in the position for a short time, an Audit team from the Western Field Division audited the work that he was performing. They classified the work that Larry was doing at the GS-5 level. The classifiers stated that there was work available to the GS-9 level but that the way Larry was performing the job he could only be graded as a GS-5. . .In addition, he was fighting with his co-workers and there was a communication problem wth him all the way around. I then put Larry back into an accounting position. . .

Larry very definitely has an extreme communication problem. . .Larry has told me that he feels everyone is against him. He has accused all of his former supervisors. . .of being racially prejudiced and discriminating against him. He also feels that I am racially prejudiced and discriminating against him.

It is my personal opinion that Larry has either been over promoted or he is working in a field where he just doesn't have the ability to perform. . .

Both of the Budget Analyst positions for which Larry applied under Vacancy Announcement Nos. 303-79 and 410-79 were positions that required a good ability to meet and deal with people at all levels and especially the ability to meet and deal with people at high levels. Larry's ability to communicate on the job has been almost zero. Therefore, I did not consider selecting him for either position. For the first position. . .I selected a Mr. Steven Leroy. . .He had been employed in Range Operations. . .had been performing all the duties in this position at the GS-9 level while paid as a GS-5 and a GS-7. . .while in Range Operations he worked with the Vice Commander and Technical Director. I had received comments from both these individuals that he had done an outstanding job. Additionally, Steve had collateral duties as Executive Officer of the Acquisition Review Board . . .Steve had a tremendous ability to meet and deal with people and possessed very good judgment . . .after I had made my selection I would contact two levels of supervision above the position and ask the supervisors for their recommendations. In this instance I contacted Mr. Reinhold . . .and Mr. Grimm . . .both men recommended the selection of Steven Leroy . . .

Under Vacancy Announcement No. 410-79 I selected Margaret Caldwell. Margaret was formally a GS-6 Administrative Assistant; however, her job was audited and reclassified as a strong GS-9 Budget Analyst Position. Margaret had performed this job and had received outstanding performance awards while being paid as a GS-5 or GS-6. The job was announced at the GS-5/7/9 level and Margaret was selected and worked in the position continuing to receive outstanding awards and ratings. I believe she had

performed in the job for about two years at the nine level prior to my selecting her for the instant position. Margaret has a superior ability to meet and deal with people and is a person with great potential . . .very good experience and background . . .again after I had decided to select her I contacted the supervisors over the position, both recommended the selection of Margaret.

Because of Larry's inability to meet and deal with people on the job I would not have selected him for the position if he had been the only candidate. In that instance I would have cancelled the register. The evaluations that Larry was given by his immediate supervisors when applying for the position did not impact upon me one way or the other. I knew he was definitely not the person for the position and his race had nothing to do with it. I certainly deny that I at any time in the selection process ever considered Larry's race . . .I have previously selected Black individuals when they were the best qualified candidates."

b. Mr. Richard Rochon stated, "I first had supervisory authority over Mr. Larry Ray in August 1973 . . .Larry had difficulty and problems in performing the work I assigned to him . . .

I was contacted by an EEO Investigator in about 1973 or 1974 and was informed that Larry claimed I discriminated against him. I was quite surprised by this because I have taken extra measures to help him in his job. Larry had alleged that I had unfairly given him low ratings on supervisory evaluations I completed regarding jobs for which he had applied. I told the EEO Investigator of my work with Larry and informed him I had only completed one supervisory evaluation regarding Larry's application for employment. I provided a copy of this evaluation to the investigator. He was surprised and stated that the evaluation showed Larry to be satisfactory. I stated that this was correct. This evaluation was also consistent with Larry's yearly supervisory appraisal.

I have been informed by another EEO Investigator that Larry has again filed an EEO complaint and named me as one of the individuals who discriminated against him. Allegedly, by my actions I influenced Messrs. Millspaugh and Meneely against him, and that this resulted in his non-selection for two vacant Budget Analyst positions. I have never stated anything negative about Mr. Ray to either Mr. Meneely or Mr. Millspaugh. I am at a loss to know why he is alleging I discriminated against him. I have never considered Larry's race (Black) in any action I have taken relating to him. The only discussion I ever had with Mr. Meneely relating to Mr. Ray was when Mr. Meneely phoned me and stated Mr. Ray had contacted him requesting a transfer and he was going to give him the transfer. I concurred in this decision . . .I have had no future contact or supervision over Mr. Ray since he was transferred by Mr. Meneely in about 1976 . . .

c. Mr. Victor Reinhold stated, "I am the immediate supervisor over the Budget Analyst position for which Mr. Steven Leroy was selected in 1979. I was acquainted with the candidates for this position. . .The selecting official for all positions in the Comptroller's Department at that time was the Comptroller, Mr. Floyd Meneely. I don't remember giving a recommendation to Mr. Meneely regarding the selection. I concur in his selection of Mr. Leroy. I was aware of the work Mr. Leroy was doing and his capabilities and qualifications.

Mr. Ray had worked in my section. . .I was aware of his qualifications and capabilities. There was absolutely no doubt that Mr. Leroy was better qualified for the position than Mr. Ray. When Mr. Ray worked under me I found him to be a totally useless employee. He woul' sit at his desk with his eyes closed about four hours a day. I received pressure from my superiors to give him enough work to keep him busy. He had sufficient work, he just would not, or could not do it. . .I wanted to take disciplinary action against Larry but I was prevented from doing this by Mr. Meneely. I don't think Mr. Meneely wanted to take any action because Larry was a minority. Mr. Meneely transferred Larry from my section and this solved the problem for me.

There is no way that I would have recommended Larry for the position of Budget Analyst and his race (Black) had nothing to do with it. He is just not, in my opinion, competent to handle the position. The position in question required the ability of a person to meet and deal with people at all levels. Mr. Ray is unable to meet and deal and communicate with people.

d. Harold D. Reich stated, "Up until two months ago I had been L wrence E. Ray's immediate or second level supervisor for over a year. . .

I prepared supervisory evaluations on Mr. Ray when he applied for various vacant positions. . .I have always prepared these evaluations. . .very fairly. In fact, I have given him the benefit of the doubt when I have prepared them. . .

On the evaluations prepared 14 August 1979 I signed as second level supervisor. Larry was not given a rating on elements 1 and 2. I had never observed him perform. . .I was not aware of his abilities in these areas. Larry was in an Accounting position and was applying for a Budget Analyst position. Under elements 3 and 4 I concurred with Mr. Millspaugh in rating him above average. This gave Larry the benefit of the doubt. Element 3, was the ability to communicate both orally and in writing with program managers. Larry does not communicate with anyone on the job. He is solemn and never talks to supervisors unless he is in a situation where he can not avoid it. He also has minimum communication with his co-workers. When it was necessary for me to discuss Larry's work with him I found him difficult to deal with. He was reluctant to provide me with answers and was always very non-communicative.

Element 4, was the ability to work independently with minimal direct supervision. . .I concurred with the above average rating Mr. Millspaugh gave him. . .however, he does not do outstanding or even above average work so I could not evaluate him higher here. While he does work independently his work occasionally needs correction. At these times Larry was very difficult to work with and there was very minimum communication.

In summation, I feel I always gave Larry very fair evaluations. At no time have I ever considered his race in the action I took which impacted upon him.

e. Mr. Orville W. Millspaugh stated, "I completed a supervisory evaluation of Larry when he applied for the Budget Analyst position under Announcement No. 303-79. I did not mark the elements as I had not personally observed him in these areas. I

did state that I considered him capable in all elements via his work in the budget area. I also added that he had won awards for public speaking.

I also completed an evaluation when he applied for the Budget Analyst position under Announcement No. 410-79. I rated him above average on two elements and left two elements unmarked. I did not mark these elements because I had not personally observed him in these factors. I did not consider Larry's race (Black) in making his evaluation. Frankly, I feel I gave him the benefit of the doubt in marking his ability to communicate as above average. Larry does have this ability but he does not always exercise it. . .His work performance is marginal. He does a lot of work but his methods are not the best. . .I have not made any statements to Mr. Meneely to downgrade Larry. But Mr. Meneely would have been aware of the work he was performing. Also, I did not discuss Larry with his former supervisors, Messrs. Savala and Rochon, so I was not influenced by them in my dealing with Larry. I feel I was fair in the evaluations I gave Larry and I never considered his race at any time in the evaluation process.

f. Mr. Robert Savala stated, "I was Mr. Ray's immediate supervisor from 1970 to 1973. Prior to that I had been a co-worker with him. I was his second level supervisor in 1975 or 1976 but I have not supervised him since that time.

Mr. Floyd Meneely was Comptroller form 1977 to 1979. I have not supervised Larry during this time and to the best of my recollection I never discussed Larry or his performance with Mr. Meneely. I also do not recall discussing Mr. Ray with Mr. Millspaugh. I heard Mr. Millspaugh state to the Head of the Division that he had a problem with Larry. I did not enter into the discussion. I deny that I ever stated anything or did anything to adversely influence either Mr. Millspaugh or Mr. Meneely against Larry.

g. Mr. Glenn Grimm stated, "I was a division head under Mr. Floyd Meneely for approximately two years prior to his retirement in February 1980. While Mr. Meneely was Comptroller he was the selecting official for all positions. Mr. Meneely received an EEO award for managers for the work he performed. I felt he deserved the award. He took affirmative action in equal employment as a personal goal rather than a command directive. He lived equal employment and treated everyone equally without regard to race or national origin. I recall one selection he made where both the first level supervisor and myself recommended two individuals as equally qualified. He did not hestitate, but selected the minority candidate, a Black. I know that when he was in Washington, D.C. he worked with the inner city in helping Black people rebuild abandoned homes. I personally feel sure Mr. Meneely bares no racial prejudices.

h. The selectees, Mr. Steven Leroy and Ms. Margaret Caldwell, were both rated highly qualified and both of their names were certified to the selecting official as best qualified candidates.

i. EEO statistics reflect that the percentage of Black employees at the GS 9 level in the Comptroller's Department is 4% compared to 2% for PMTC. Civilian labor force statistics show Black people comprise 1.4% of the work force in Oxnard-Simi Valley-Ventura, California

j. Selection records for the Comptroller's Department reflect that the ADO, Mr. Meneely, made selections of Black employees both for promotions within the Comptroller's Department and as new accessions.

k. Mr. Meneely received the PMTC EEO Annual Award in 1979. The Award praised his effort and actions in EEO and stated, "During the four years under Mr. Meneely's supervision, EEO goals for the Comptroller's office have been met or exceeded."

l. All individuals accused of discriminating against the Complainant, by adversely influencing Messrs. Millspaugh and Meneely against him, denied they had done as the Complainant alleged. Messrs. Millspaugh's and Meneely's testimony corroborated the statements by these individuals.

3. FINDINGS OF FACT:

Investigation revealed the following:

a. Both of the selectees and the Complainant were certified to the selecting official as best qualified candidates.

b. The selecting official stated that he considered merit factors in making his selection and did not consider race.

c. There was an EEO goal for a Black employee in a GS-560-09 poisition.

d. The selectees were both Caucasians.

e. The Complainant, who was not selected for the position, is Black.

f. The selection record of Mr. Meneely reflects that he made selections of Black individuals both for promotions and as new accessions to the Comptroller's Department.

g. Supervisors over the subject positions and others in the Comptroller's Department support Mr. Meneely's judgment that the Complainant was not the best qualified person for the two vacant positions.

h. Exhibit 33 reflects Mr. Meneely met or exceeded EEO goals during the four years he was Comptroller.

i. EEO statistics reflect that the percentage of Black employees at te GS-9 level in the Comptroller's Department is 4% compared to 2% for the Pacific Missle Test Center.

j. Black people comprise 1.4% of the work force in the Oxnard-Simi Valley-Ventura, California area.

VII. ENVIRONMENT:

There was another discrimination complaint filed regarding a non-selection for the two subject Budget Analyst positions. Another employee of the Comptroller's Department alleged that she was not selected for the positions because of her national origin (Hispanic) and named Mr. Meneely as the alleged discriminatory official.

James A. Anderson
JAMES A. ANDERSON

731 Janetwood #11
Oxnard, California 93030
26 August 1980

Director
Office of Appeals and Review
Equal Employment Opportunity Commission
2401 E. Street, N. W.
Washington, D. C. 20506

Subj: Discrimination Complaint; inquiry for acknowledgement of receipt of submission

Ref: (a) Ltr.; Discrimination Complaint; appeal for acceptance of rejected portions (additional) of Lawrence Earl Ray; dtd. 3 April 1980.

Encl: (1) Copy of Reference a

(2) Duplicate of correspondence dtd. 26 August 1980.

1. Reference a with enclosures and duplications were submitted by mail to your office on the date stated on enclosure (1).

Inquiries have not substantiated the fact that the aforestated referenced letter was received by your office according to telephone conversations to that effect.

2. This letter of 26 August 1980 is being submitted as a tracer to obtain acknowledgement of receipt.

If no reply is received from your office within seven (7) days of the receipt of this letter a duplication of the referenced correspondence will be submitted to your office in duplicate to initiate filing of an appeal for acceptance of the rejected portions of the Discrimination Complaint.

3. If this is not acceptable procedures, please advise of the standard procedure to file the complaint.

Sincerely,

Lawrence Earl Ray
Lawrence Earl Ray

731 Janetwood #11
Oxnard, California 93030
12 September 1980

Director
Office of Appeals and Review
Equal Employment Opportunity Commission
2401 E. Street N. W.
Washington, D. C. 20506

Subj: Discrimination Complaint; submission to initiate filing of

Ref: (a) Ltr.; Discrimination Complaint; inquiry for acknowledgement of receipt of submission, of Lawrence Earl Ray; dtd. 26 August 1980.

(b) Ltr.; Discrimination Complaint; appeal for acceptance of rejected portions (additional) of Lawrence Earl Ray; dtd. 3 April 1980.

Encl: (1) Copy of Reference a; w/enclosures

(2) Copy of Reference b; w/enclosures and corrections to references.

1. In concurrence to statement made in reference a; reference b is hereby submitted (along with enclosures 1 and 2) in duplicate to substantiate the filing of the appeal for the acceptance of rejected portions (additional) of 3 April 1980.

Sincerely,

Lawrence Earl Ray
Lawrence Earl Ray

DEPARTMENT OF THE NAVY
COMMANDER
PACIFIC MISSILE TEST CENTER
POINT MUGU, CALIFORNIA 93042

IN REPLY REFER TO:
0030
12713
Ser A 1376
22 SEP 1980

Mr. Lawrence Earl Ray
731 Janetwood #11
Oxnard, CA 93030

Dear Mr. Ray:

The purpose of this notice is to inform you of the proposed disposition of your discrimination complaint and your rights if you are dissatisfied with the proposed disposition.

Proposed Disposition:

On 25 July 1980, you, Mr. Charles Gartman of my Equal Employment Opportunity (EEO) staff, and I met for the purpose of discussing your formal discrimination complaint of 14 December 1979.

Based upon a careful review of the EEO Investigator's report, and after soliciting your views, I cannot find substantial evidence which would support your allegation of discrimination. Therefore, my proposed disposition is a finding of no discrimination.

Mr. Gartman informs me that he has had additional discussions with you regarding your complaint and has encouraged you to communicate your concerns to the new Comptroller, Mr. Glenn Grimm. I would suggest that you seek Mr. Gartman's assistance should you have the need to further discuss your feelings.

I will communicate my concerns regarding your employment situation with Mr. Grimm for the purpose of raising his awareness and gaining his support in providing you a professional, positive working environment.

I trust you will continue to support the Pacific Missile Test Center in what I perceive to be your professional and dedicated manner.

Rights of Hearing:

If you are dissatisfied with the proposed disposition, you may request a hearing and decision by the Secretary of the Navy or his designee, if you notify the undersigned within 15 calendar days of receipt of the notice that you desire a hearing.

If you request a hearing, you are expected to proceed without delay in presenting your complaint before the Complaints Examiner. If you plan to have a representative, you should immediately obtain representation and you should also begin preparing a list of proposed witnesses with a summary of the testimony you believe each would present at the hearing. The Complaints Examiner will request this list immediately after being assigned to your case.

0030
12713
Ser
22 SEP 1980

Failure to prosecute your complaint without undue delay may be grounds for the Complaints Examiner to return your case to the Department of the Navy. The Department of the Navy may thereafter issue a final decision based on the evidence present in the complaint file.

Right of Decision Without a Hearing:

If you are dissatisfied with the proposed disposition, you may request a decision by the Secretary of the Navy or his designee without a hearing, based upon evidence present in the complaint file.

If you fail to notify the undersigned of your wishes within the 15-day period, the EEO Officer may adopt as the Department's final decision the proposed disposition shown above and will so notify you in writing. Upon receipt of notification, you may appeal to the Director, Office of Appeals and Review, Equal Employment Opportunity Commission, 2401 "E" Street, N.W., Washington, D.C. 20506 within 15 calendar days or file a civil action in a Federal District Court within 30 days.

If you appeal to the Commission, you may still file a civil action within 30 days of receipt of the Commission decision, or 180 days after your appeal to the Commission if you have not received a final decision from the Commission.

If you have further questions regarding the afore described process, please call the Discrimination Complaint Manager, Charles Gartman at 982-8939.

Sincerely,

Fred H. Baughman

F. H. BAUGHMAN

0030
12713

24 SEP 1980

MEMORANDUM

From: Comander, Pacific Missile Test Center
To: Comptroller

Subj: EEO Practices

1. I recently reviewed with Lawrence Ray of your organization his EEO complaint in which he alleged that he had been discriminated against because of his race (black). In the specific case in question, a merit promotion selection to GS-560-11, I found no discrimination.

2. Of concern to me, and potentially much more difficult to deal with, is Mr. Ray's sincere belief that he has been systematically, or perhaps more accurately, routinely or repeatedly harassed and discriminated against by supervisors and co-workers. He feels that in day-to-day matters and in periodic evaluations he is treated unfairly because he is black. Such a situation, if true, is absolutely unacceptable. Such a perception on the part of a black employee, even if not true, is cause for real concern.

3. I recognize that this is a very subtle and difficult matter to attack; I urge you to tackle it in your organization. Even bringing this to the attention of your people, some of whom may, by their attitudes, be unconciously contributing to such feelings, will go a long way.

F. H. BAUGHMAN

Copy to:
0030
0231 (L. Ray)

Prepared by:
RADM Baughman/rs
15 Sep 80

731 Janetwood #11
Oxnard, California 93030
3 October 1980

F. H. Baughman,
Rear Admiral, U. S. Navy
Commander
Pacific Missile Test Center
Code 0000
Point Mugu, California 93042

Subj: Request for a Hearing and Decision by the Secretary of the Navy; appeal to the find- of no discrimination

Ref: Commander, Pacific Missile Test Center, Point Mugu, California; ltr. 0030/12713 Ser: A 1376; dtd 22 September 1980.

Dear Sir:

It is with deep regrets that I cannot accept your proposed disposition of a finding of no discrimination; not only to the past grievances, but the most recent decision of non-selection on Job Application #345-AS-80 of 4 September 1980, places an additional burden upon previous grievances.

I therefore, request a hearing and decision by the Secretary of the Navy or his designee.

In speaking with Mr. Grimm, Comptroller, Pacific Missile Test Center, I can accept and would appreciate very much my placement in a professional, positive working environment.

Respectfully,

Lawrence Earl Ray
Lawrence Earl Ray

DEPARTMENT OF THE NAVY
COMMANDER
PACIFIC MISSILE TEST CENTER
POINT MUGU, CALIFORNIA 93042

IN REPLY REFER TO
0030
12713
Ser 1517

22 OCT 1980

Mr. Lorenzo H. Traylor
District Director
Equal Employment Opportunity Commission
3255 Wilshire Blvd., 9th Floor
Los Angeles, CA 90010

Re: EEO Complaint of Mr. Lawrence Earl Ray

Dear Mr. Traylor:

Mr. Lawrence Earl Ray, a Pacific Missile Test Center employee, has requested a hearing and subsequent decision by the Secretary of the Navy regarding his discrimination complaint of 14 December 1979. It is requested that you provide a hearing officer at the earliest possible date. Attached is a copy of the case file.

If you have any questions, please direct them to Mr. Charles Gartman, Discrimination Complaints Manager, at telephone number (805) 982-8939 or Pacific Missile Test Center, EEO Office, Code 0030, Point Mugu, California 93042.

Sincerely,

F. H. BAUGHMAN
Rear Admiral, U.S. Navy

Enclosure:
(1) Discrimination complaint file

Copy to: (w/o encl)
Mr. Lawrence Earl Ray
NCPC (Code 41)

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
WASHINGTON, D.C. 20506

NOV 7 1980

Mr. Lawrence Earl Ray
731 Janetwood #11
Oxnard, CA 93030

Docket No. 01800734

Discrimination Complaint
Appeal of: RAY, Lawrence Earl
Agency: Department of the Navy
Final Decision Date:

Dear Mr. Ray:

Enclosed please find the final decision of the Equal Employment Opportunity Commission in the discrimination complaint appeal referred to above.

Sincerely yours,

Nestor Cruz
Director, Office of Review
and Appeals

Enclosure

U. S. Department of the Navy
Chairman, Employee Appeals Review Board
801 N. Randolph Street, Rm. 720
Arlington, VA 22203

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
WASHINGTON, D.C. 20506

Lawrence Earl Ray,
Appellant,

v.

Department of the Navy,
Appellee.

Appeal No. 01800734

DECISION

INTRODUCTION

On February 6, 1980, Lawrence Earl Ray (hereinafter referred to as appellant) initiated an appeal from the final agency decision of the Department of the Navy (hereinafter referred to as agency) rendered January 22, 1980, on his equal employment opportunity complaint of discrimination based on race (black) and national origin (born in Shelley, Texas, not in Ventura County) in violation of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. Sec. 2000e et seq. The appeal was accepted by the Commission in accordance with the provisions of EEOC Order No. 960, as amended, dated January 2, 1979.

BACKGROUND

Appellant alleged that he was discriminated against because he (a) was not promoted; (b) was given an unfair performance evaluation and rating; (c) was given an unfair merit promotion appraisal; (d) was given an unfair position description and classification; and (e) was psychologically harassed. The agency accepted allegations "a" and "b" for processing on the basis of racial discrimination. National origin was rejected as a basis because appellant did not allege foreign extraction. Allegations "c", "d" and "e" were rejected as untimely since the alleged discrimination occurred more than 30 days prior to appellant contacting the EEO Counselor in October 1979.

ANALYSIS AND FINDINGS

The agency rejection of appellant's allegations of discrimination based on national origin was proper. National origin in the context of Title VII, supra, refers to the country where a person was born or the country from which his ancestors came. It does not embrace the concept of citizenship of a town or county. See Espinoza v. Farah Mfg. Co., 414 U.S. 86 (1973).

As regards the agency rejection of allegations "c", "d" and "e", the agency finding of untimeliness was correct. Appellant first contacted the EEO Counselor on or about October 9, 1979. The allegedly unfair merit promotion appraisal was given in March 1979, and the allegedly unfair position description and classification arose in September 1977. Additionally, although appellant listed many incidents beginning in 1973 to support his allegations of psychological harassment, none occurred within 30 days of his contact with the EEO Counselor. Therefore, the agency rejection of allegations "c", "d" and "e" were proper pursuant to EEOC Regulation 29 C.F.R. Sec. 1613.214(a)(1)(i) which requires that a complainant contact the EEO Counselor within 30 days of the time of the alleged discrimination.

CONCLUSION

Based on a review of the record in this case, the decision of the Equal Employment Opportunity Commission is to affirm the final agency decision.

NOTICE OF RIGHT TO FILE A CIVIL ACTION

Pursuant to 29 C.F.R. Sec. 1613.282, the appellant is hereby notified that this decision is final and that he has the right to file a civil action in the appropriate United States District Court within thirty (30) days of the date of receipt of this decision.

NOTICE OF RIGHT TO REQUEST REOPENING

The appellant and the agency are hereby notified that the Commissioners may, in their discretion, reopen and reconsider any previous decision when the party requesting reopening submits written argument or evidence which tends to establish that:

1. New and material evidence is available that was not readily available when the previous decision was issued;

2. The previous decision involves an erroneous interpretation of law or regulations or misapplication of established policy; or

3. The previous decision is of precedential nature involving a new or unreviewed policy consideration that may have effects beyond the actual case at hand or is otherwise of such an exceptional nature as to merit he personal attention of the Commissioners.

This notice is in accord with 29 C.F.R. Sec. 1613.235. The agency's attention is directed to 29 C.F.R. Sec. 1613.235(b) for time limitations on agency requests to reopen.

FOR THE COMMISSION:

10/7/80
DATE

acting Executive Officer
Executive Secretariat

731 Janetwood #11
Oxnard, California 93030
26 November 1980

Director
Office of Appeals and Review
Equal Employment Opportunity Commission
2401 E. Street N. W.
Washington, D. C. 20506

Subj: Request for Reopening and Reconsideration of Final Decision on Case of Lawrence Earl Ray v. Department of the Navy; Appeal and Docket No. 01800734.

Ref: (a) Ltr.; Final Decision of the Equal Employment Opportunity Commission; Docket No. 01800734; dtd. 7 November 1980.

(b) H. J. Broderick, EEO Investigator's Report, Regional Office Of Civilian Manpower Management, San Diego, California 92101; Ser 42/HJB:amt; 12713 dtd. 28 April 1975.

1. In accordance to reference a the Equal Employment Opportunity Commission affirmed the Final Agency Decision in the above referenced case.

2. An appeal is hereby made for reopening and reconsideration due to the facts:

1. Nature of the case is Psychological Harasshment.

2. Impact of the psychological burden is not afflicted at time of referenced actions.

3. The Case filed in 1974 (referenced b) was for the investigation and abatement of psychological harasshment.

4. Psychological burden and occurence is a constant everyday thing.

3. Please be advised that an appeal will be made to the Civil Service Commission and Civil Action will be filed in the appropriate United States District Court.

Sincerely,

Lawrence Earl Ray
Lawrence Earl Ray